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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Second periodic reports of States parties due in 1997

Addendum

Guatemala*

[7 October 1998]

* For the initial report submitted by the Government of Guatemala see CRC/C/3/Add.33; for consideration of the report by the Committee, see CRC/C/SR.306-308.

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ACROYNMS

ADEJUC	Alliance for Community Youth Development
AGPCS	Guatemalan Association for the Prevention and Control of AIDS
ASCATED	Association for Training and Technical Assistance in Education for the Disabled
CCOIPINGUA	Consultative Committee of International Organizations for the Comprehensive Protection of Children in Guatemala
CEAR	National Committee for Aid to Refugees, Returnees and Displace Persons
CIPRODENI	Inter-Institutional Coordination Unit for the Rights of the Child
COEDUCA	Community Educational Committee
COINAP	Inter-Institutional Committee for the Provision of Services to the Population in Marginal Areas of Guatemala
CONACMI	National Commission against Child Abuse
CONANI	National Action Committee for Children
COPANJ	Standing Commission on Children and Adolescents
COPREDEH	Presidential Commission for Coordinating Executive Policy in the Field of Human Rights
ENSMI	National Survey on Maternal and Child Health
FONAPAZ	National Fund for Peace
IGSS	Guatemalan Social Security Institute
INAJU	National Youth Institute
INE	National Statistical Institute
MINUGUA	United Nations Verification Mission in Guatemala
NEU	New Unitary School
PAC	Civil Self-Defence Patrols
PAIN	Comprehensive Care Programme for Children Under Six

PLANEPI	National Plan for Comprehensive Preventive Education
PRODEN	Commission for the Convention on the Rights of the Child
PRONADE	National Programme for Educational Self-Management
PRONICE	Pro Niño y Niña Centroamericanos
SECCATID	Office of the Executive-Secretary of the Committee against Drug Addiction and Drug Trafficking
SEGEPLAN	Secretariat-General of the National Economic Planning Council
SIAS	Comprehensive Health Care System
SICARED	National Regionally-Based Training Scheme for Intercultural Bilingual Education
SIMAC	National System for Improvement of Human Resources and Curricula
SIS	Social Indicators System
SOSEP	Office of Social Works of the First Lady
URNG	Unidad Revolucionaria Nacional Guatemalteca

Introduction

1. Guatemala was the sixth country to accept obligations under the Convention on the Rights of the Child when it ratified the Convention in 1990. Among these, it undertook to submit to the Committee on the Rights of the Child, through the Secretary-General of the United Nations, reports on the measures it has adopted which give effect to the rights recognized therein.

2. A first report on the situation of children in Guatemala, legislation governing children's matters and government bodies responsible for children's needs was prepared in 1992. For various reasons this report was not considered at the time, and in 1994 the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH) prepared a new initial report for submission to the Committee, which adopted a series of concluding observations on the report after considering it in June 1996.

3. The aspect of the Committee's observations which have been given the most attention and on which the efforts of both State bodies and civil society have focused is the harmonization of legislative measures, i.e. the shift in national legislation on children from the "irregular situation" doctrine to the doctrine of comprehensive protection in the spirit of the Convention on the Rights of the Child.

4. For Guatemalan society in general, the recently-adopted Children and Adolescents Code represents a valuable tool that will help bring about a historical change in the way in which children's basic needs are addressed. Many of the concerns expressed by the Committee on the Rights of the Child concerning the precarious situation of Guatemalan children as reflected in the previous report have been taken into account in the text of the new Code, whose implementation is bringing about structural and institutional changes and changes in social policy. For example, bodies established pursuant to the Code, such as the National Children's Council, are to give priority in the short term to the formulation of a general policy on children; likewise, the National Commission on Juvenile Labour is to consider adopting measures for setting 15 as the minimum age of employment.

5. The serious problem in the education sector which affects children the most heavily and which is a subject of concern as much to Guatemala as to the Committee, will be given special attention through the Commission on Education Reform set up pursuant to the Peace Agreements. Guatemala has given special attention to the Committee's concerns and recommendations (see document CRC/C/54, paras. 201-233) and is focusing considerable efforts on achieving them. Many of these efforts are part of the process of implementation of the Peace Agreements.

6. As Guatemala's initial report (CRC/C/3/Add.33) was considered in June 1996, at which time additional written information was provided to the Committee at its request, it was decided that the second periodic report, on progress made in the implementation of the Convention due in 1997, would contain information covering 1996 and 1997 and would also take into account the particular situation of the country at that time.

7. The past decade has been a significant time in Guatemala's history, which has brought the country from a deeply polarized society to a stage when the groundwork is being laid for a new national project based on three basic elements: social reconciliation, reconstruction of the economy and establishment of the rule of law. This particular socio-political and economic context is a result of negotiations between the Government and the Unidad Revolucionaria Nacional Guatemalteca (UNRG), which led to the end of the armed conflict and the signing of the Agreement on a Firm and Lasting Peace on 29 December 1996.

8. This new situation involves complex and far-reaching challenges, and addressing them is not the task of the Government exclusively; political sectors, non-governmental organizations and society at large must work to create a social fabric based on democracy, equity and justice, including, for the first time, recognition of the multicultural and multilingual nature of Guatemalan society.

9. The extensive political and financial investment required for both the peace process and the mobilization of society in discussing a new legal instrument on children and young people in Guatemala have curbed efforts to strengthen conditions conducive to the full implementation of the rights contained in the Convention. However, both the signing of the Peace Agreements and the adoption of a new Children and Adolescents Code represent significant progress at the political, legal and social level towards guaranteeing human rights and providing hope for a better life for Guatemalan children and young people, who represent 44 per cent of the population.

10. It must be acknowledged, however, that serious deficiencies in children's standard of living unfortunately persist; there are high rates of child morbidity and mortality and limited access to education as reflected in low coverage and high drop-out and absenteeism rates, resulting in a high percentage of illiteracy in the country. Another alarming factor is the number of children obliged to join the labour force temporarily owing to the high levels of poverty and extreme poverty which the vast majority of Guatemalan families suffer. Children, especially indigenous children in rural areas, bear the brunt of this precarity, which prevents them from developing their full potential. These problems will be analysed in more detail in the report.

11. The Government and civil society still face a series of constraints in meeting the needs of Guatemalan children, including the low level of participation and awareness in some sectors, geographical dispersion and lack of roads and basic services in rural areas and the persistence of discrimination based on age, sex and ethnic origin. Other problems include the difficulty of obtaining up-to-date, reliable statistics and the lack of coordination between Government agencies and NGOs, which often leads to duplication of efforts and makes it difficult to use human and financial resources effectively.

12. To eliminate these obstacles the State has proposed initiatives based on its commitments under the Peace Agreements, especially the Agreement on Social and Economic Aspects and Agrarian Situation and Agreement on Identity and Rights of Indigenous Peoples. The Agreements provide for a substantial increase in social investment. For example, an educational reform is planned, based on the concept of respect for the identity of indigenous peoples and equality between the sexes, and goals have been set for reducing the illiteracy rate to 30 per cent by the year 2000 and raising educational coverage in the areas with the lowest coverage rates.

Concerning health, decentralization is being introduced in order to guarantee access to wellness for the entire population, and a significant increase in the health budget planned. Equally important is the support being given to the housing sector, aimed at meeting the 1.5 per cent budget allocation required by law and at decentralizing the system in order to provide housing for the greatest possible number of low-income Guatemalans, especially in the rural sector.

13. The new Children and Adolescents Code adopted in 1996 is also an important step forward for Guatemalan children and young people, as its provisions are based on the doctrine of comprehensive protection of children's rights, which is compatible with the principles set forth in the Convention. The Code represents an important effort at participation and social consultation. It also involves government agencies, NGOs and civil society as a whole in its implementation. This situation is requiring changes in paradigms and extensive organizational and administrative restructuring, aimed at meeting the priority needs of Guatemalan children. Although the Congress of the Republic has postponed the Code's entry into force to 1 March 1998, this in no way implies a decline in attention to such a vulnerable social group as children and adolescents, and the preparatory phase aimed at full acceptance of Guatemala's obligations under the Convention is continuing.

14. The manner in which this report was prepared is a sign of the changes taking place in terms of discussion between the Government and civil society. A consultation process was carried out involving government officials and representatives of NGOs, based on the assumption that children's development potential was the responsibility of the State, consisting of the legislative, executive and judicial branches, regardless of the involvement of civil society organizations.

15. This report has been organized as follows: for each topic on which the Committee has requested information, a diagnostic outline is presented, followed by the legal machinery contained in the Children and Adolescents Code and other legal and political provisions. Lastly, discussion focuses on some of the specific innovative activities which the Government and NGOs are conducting in an effort to enforce children's rights.

I. GENERAL DESCRIPTION OF THE COUNTRY

A. Population

16. Guatemala is a multi-ethnic, multicultural and multilingual society made up of Mayas, Ladinos, Garífunas and Xincas; the National Statistical Institute estimates its population at 10 million inhabitants (1997), which makes it the most heavily populated country in the Central American region. Its disaggregated population figures are as follows: 35 per cent urban, of whom 50 per cent are concentrated in the metropolitan region, and 65 per cent rural, most of whom live in the western part of the country.

17. Children and adolescents under 18 years of age make up 44 per cent of the population, which, disaggregated by sex, represents 50 per cent male and 50 female; concerning ethnic identification, the 1994 national population census, which distinguishes only between indigenous and non-indigenous people, sets the indigenous population as 42.8 per cent and

non-indigenous as 57.2 per cent. It should be pointed out that this latest census used population self-identification and the mother tongue in which the respondent learned to speak as its methodological criterion, providing additional data on the identity of the Guatemalan population.

18. One interesting statistic produced by the national census is the geographical distribution of the population, indicating that people of Mayan descent predominate in three regions: north, north-west and south-west; the non-indigenous population predominates in the metropolitan, north-east and south-east regions and the Petén. Approximately equal numbers of indigenous and non-indigenous people live in the central region.

B. Socio-political context

19. The most signficant feature of Guatemalan society today is the ending of the internal armed conflict, which lasted 36 years and had a devastating impact on the Guatemalan population, especially children in rural areas. On 29 December 1996, the Agreement on a Firm and Lasting Peace was signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), ending a long negotiation process which opened up opportunities for expression and participation by civil society; this process was supported at every stage by friendly countries and international cooperation agencies.

20. Although none of the commitments specifically refer to children, the spirit which characterizes the provisions of the Comprehensive Agreement on Human Rights, the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict and the Agreement on Identity and Rights of Indigenous Peoples is one of prospects for change and the establishment of new social policies to meet the needs of children and adolescents in vulnerable situations. One example is the implementation of the educational reform called for in the Peace Agreements, which requires the Government to take more determined steps to guarantee the right to education.

21. The Government's Plan of Action for Social Development and Peace-building, 1996-2000, establishes a strategic social development framework in keeping with the Peace Agreements, in which priority is given to health and education activities aimed at improving the precarious living conditions of the children indicated by the high illiteracy and child morbidity and mortality rates.

22. An evaluation of the first eight years since the signing of the Peace Agreements shows that the points included in the Agreement on the Implementation, Verification and Compliance Timetable for the Peace Agreements have been met and, in particular, attests to the seriousness with which the Government completed its demobilization and legal dissolution of the Voluntary Civil Defense Committees. A decrease has also been noted in human rights violations committed by State agents. Of significance is the political will shown by the Government in establishing the joint commissions under the Peace Agreements, whose basic purpose is to analyse and propose solutions concerning education, health, respect for identity, access to land and other serious problems. Its call for a dialogue with civil society in order to reach consensus among all sectors on the measures proposed for modernizing the State is also worthy of mention.

II. GENERAL MEASURES OF IMPLEMENTATION

Measures taken to harmonize national law and policy with the provisions of the Convention

A. Legislative measures

23. Article 51 of the Constitution of the Republic requires the State to protect the physical, mental and moral health of minors and of the elderly and to guarantee their right to food, health, education, security and social welfare. Article 4 of the Convention stipulates that "States parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention."

24. Pursuant to the above-mentioned legislation, the Commission for the Convention on the Rights of the Child (established in 1989 and made up of government agencies, NGOs and private bodies, under the coordination of the Human Rights Procurator) began mobilizing Guatemalan society in 1992, with the firm backing of the United Nations Children's Fund (UNICEF), for the purpose of preparing a body of legislation that would replace the "irregular situation" doctrine by one based on the principle of comprehensive protection of children as embodied in the Convention on the Rights of the Child and other United Nations instruments. Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"), Rules for the Protection of Juveniles Deprived of Their Liberty and Guidelines for the Prevention of Juvenile Delinquency ("Riyadh Guidelines").

25. After five years of analysis, discussion and effort, the Congress of the Republic adopted the "Children and Adolescents Code" through Decree No. 78-96; the Code was published in the Diario Oficial (Official Gazette) on 27 September 1996 and entered into force on 1 March 1998. The Code sets forth a new concept in regarding children and young people as subjects of rights, within a framework of democracy and respect for human rights.

26. Another important legislative achievement was the promulgation in October 1996 of the Act on the Prevention, Punishment and Eradication of Domestic Violence (Decree No. 97-96), which is modelled on the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará). The Act is a mechanism for preventing and punishing acts which cause harm to people and directly affect their comprehensive development. The Act protects not only women, but children, elderly people and any other family member who, owing to particular circumstances, is exposed to situations of aggression.

Position of the Convention in domestic law

27. Article 46 of the Constitution of the Republic states, "... in matters of human rights, treaties and conventions accepted and ratified by Guatemala take precedence over internal law". On the basis of this principle, the provisions of the Convention may be invoked directly in the courts.

B. Political measures

28. The precepts of the new Code call for innovations in the political role of all the social sectors, as attested by the importance attached to the participation of civil society with government institutions in defining policies on children and adolescents and promoting their rights. The Code stipulates that government bodies shall be restructured, NGOs reorganized and opportunities created for inter-institutional coordination and decision-making at the municipal, departmental and national levels.

29. Worthy of note are the establishment of the National Children's Council, made up of high-level government representatives, civic leaders and representatives of student organizations (1 male, 1 female). The Council's main tasks are:

(a) To formulate and adopt, on a five-year basis, policies for the comprehensive protection of children and adolescents;

(b) To ensure that the necessary provision is made in the national budget to that end;

(c) To monitor and supervise services and establishments for children and adolescents; ensure that they function properly, investigate any irregularities and take the appropriate measures.

30. In this connection, concrete steps have been taken to establish the National Council, with the appointment of the Deputy Ministers of Health, Education, the Interior, Culture and Sports and Labour, the Director of the Social Welfare Department, the Under-Secretary for Economic Planning and the Director of the Guatemalan Social Security Institute, who are in the preparatory phase of establishing political, organizational and implementation guidelines.

31. A consultation process has also been launched at the civil society level, in which the various NGOs have been invited to elect their representatives on the Council. The election process and the preparation of regulations to strengthen the functioning of the National Children's Council are being directed by the Commission for the Convention on the Rights of the Child.

32. Against this background, in the light of the State's commitment to bring its social policies into line with the provisions of the Convention on the Rights of the Child and its obligations under the Peace Agreements, the Plan of Action for Social Development and Peace-building 1996-2000 was established. The Plan provides a strategic framework for government action in the social area, based in particular on the principles of respect for all aspects of life, for multiculturalism and ethnic diversity and the promotion of peace and democracy as a basic form of human coexistence.

33. The Plan of Action sets priority goals in the areas of education, health, food and nutrition, intended directly and indirectly to meet children's needs. It also establishes specific goals for children and young people at risk who require special care programmes, such as children working in the formal and informal sectors, children performing income-generating activities on

a marginal basis, street children, disabled, abused, orphaned and institutionalized children, children living in temporary shelters and child victims of the armed conflict (refugee and/or displaced children).

34. With a view to strengthening the country's social policy, structures have been created at the highest level; these include the Social Cabinet of Ministers and the Social Fund Cabinet, which coordinate their work with the Cabinet of Government and the Economic Cabinet.

35. The Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH) has begun a process of defining a general human rights policy. Taking the philosophy of the Convention on the Rights of the Child as its guideline, it has prepared a list of commitments to be met by each ministry and government office, for incorporation in sectoral planning.

C. Institutional measures

36. The new Children and Adolescents Code has brought about an important change, in that it was prepared, discussed and adopted on the basis of participation by the different sectors of civil society and by Government bodies. In order to make the provisions of the Children and Adolescents Code a reality, an institutional restructuring is taking place within the executive branch, in particular the Social Welfare Department, which is also the institution chairing the National Children's Council, the Ministry of Labour and Social Security, which is responsible for establishing and coordinating the National Commission for Child Workers and the Ministry of the Interior, which is to establish the Specialized Unit for Children and Adolescents within the national police force.

37. Decentralized and diversified structures are also being created at the local level to guarantee access to financial and human resources for the administration of justice and mobilization of society and to play an advocacy, supervisory and verification role in ensuring that the rights of children, especially those in vulnerable groups, are observed. These structures are listed in the Code as the National Children's Council, the Departmental and Municipal Children's Councils and the Municipal Children's Protection Boards (whose members are elected by the community and appointed by the Human Rights Procurator).

38. The judiciary, through the Supreme Court, has also begun the process of establishing children's courts to be located in certain regions. The professionals who will be making up the multidisciplinary teams in charge of these courts are at the training stage, under the supervision of the School of Judicial Studies in coordination with the Commission for the Convention on the Rights of the Child (PRODEN).

39. In order to support the new Code's requirement that young people in special situations must be provided with a court-appointed counsel, in May 1997 the European Union, through its "Street Children Programme", signed an agreement in the amount of $30,000 with the Supreme Court of Justice, for the establishment of a legal aid office for young people.

40. One of the most important bodies for defence, protection, training, dissemination and promotion in relation to the rights of Guatemalan children and adolescents is the Office of the

Children's Ombudsman, established in 1990 as a division of the Office of the Human Rights Procurator, which has been strengthened in recent years through allocations of greater human and financial resources.

41. Similarly, in 1991 Human Rights Procurator Agreement SG 6-91 officially established the Commission for the Convention on the Rights of the Child (PRODEN), which had come into being in 1989 and has become the coordinating body for more than 30 government bodies and NGOs and 21 Departmental Committees, whose objectives are to direct, supervise and promote the effective implementation of the Convention on the Rights of the Child at the national level. One of the activities to which PRODEN has given the most support is the establishment of Departmental Children's Rights Committees, designed to promote organization at the grass-roots level and participation of local authorities for a project to benefit children.

42. In the interest of institutional harmonization, COPREDEH's organizational structure includes a "Division for Children and Adolescents" whose purpose is to coordinate with governmental and NGOs concerning aspects within its competence, in particular to follow up complaints of violations of the human rights of children and adolescents.

D. Mechanisms for statistical information and indicators

43. Guatemala is making a considerable effort to modernize, update and strengthen national statistics systems so that institutions, especially Government bodies, are able to draw on reliable information that enables them to plan and invest resources in an efficient and timely manner. An important step forward has been the establishment by the National Statistical Institute of the social indicators system (SIS), whose basic purpose is to compile information for developing social indicators on education, economic activity and health, disaggregated by age group, geographical area, ethnic group and sex. Another of its duties is to provide follow-up of government social development plans.

44. One of the most recent SIS activities was the National Survey on Maternal and Child Health which covered 21 departments and provided information on issues relating to population and women's and children's health, to be used in the preparation of national economic and social development plans and to assist the health and family planning bodies in conducting activities for the most vulnerable population groups.

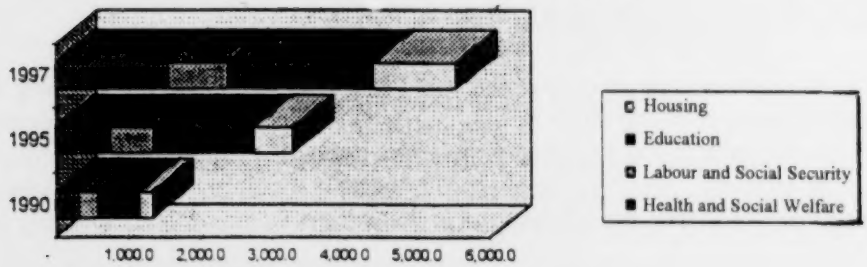
E. Budgetary analysis relating to economic and social rights

45. As part of the Government's Programme for 1996-2000, in 1996 the Ministry of Finance launched a public finance modernization and restructuring programme and began gearing its financial resources towards more effective public spending, thereby promoting macroeconomic stability, infrastructure recovery and improvement, and priority attention to the social sector.

46. In recent years the Government has been attempting to direct public spending towards more socially profitable sectors in an effort to turn the country's difficult situation around, as illustrated in the graph below:

Figure 1

Developments in social spending
(1990, 1995 and 1997)



Q (thousands)

Source: Ministry of Finance.

47. Social investment has been allocated 40 per cent of the Government's global income and expenditure budget for the current financial year, a proportion which is expected to increase to 45.9 per cent in 1998. Social investment accounted for 5,534.2 million quetzals in 1997 and 7,339.6 million quetzals in 1998, while defence spending was 1,225.5 million quetzals in 1997 and 1,470.8 million quetzals in 1998 (i.e. 8.9 per cent and 7.7 per cent respectively of the overall budget). In 1997 external assistance stood at 23.1 per cent of social spending.

48. Public spending needs to be reorganized if the Government is to fulfil its commitments; sectoral policies must be drawn up and priority assigned to the sectors with the most social profitability, making them more efficient. To that end, the following allocations to those sectors are envisaged for the fiscal year 1998.

Sector	Budget Q (millions)
Social Spending	7 339.6
Health and Welfare	1 766.9
Education, Science and Culture	2 693.9
Housing	1 450.2
Labour and Social Security	1 428.6

Source: Ministry of Finance.

49. In the Government's programme for 1996-2000 social investment plays a central role as an instrument for increasing productive capacity and attaining higher levels of economic growth, job creation and social equity. It is intended that social investment will focus clearly on target groups defined as priority sectors and that guidelines will be issued for reorienting public investment along geographical lines, in terms of the social investment deficits identified in the departments and municipalities. Accordingly, there are plans for a significant increase in social investment by 2000, to enable the country to make a qualitative leap in terms of social equity and justice.

50. This goal can only be attained if a special effort is made to improve both the quality and quantity of the basic social services on offer and if the public investment needed for the country's economic and social development is actually undertaken. The Government has therefore sought to introduce a significant but realistic tax increase in order to secure the resources it needs for discharging its various obligations.

51. In 1991 the executive branch created the social funds, a mechanism for speeding up social investment projects in health and nutrition, initial, pre-primary and primary education, support for the reintegration of the displaced population, basic infrastructure, in particular, and making them more effective. The purpose of those projects is to improve the inhabitants' quality of life, including that of children and adolescents in the various communities, especially in rural areas.

F. International cooperation

52. Guatemala has received support from the international community for the technical and financial strengthening of projects designed to implement the Convention on the Rights of the Child. One tangible product of that cooperation was the support it received for the preparations, consultations, validation and outreach activities leading to the adoption by Congress in 1996 of the Children and Adolescents Code and its subsequent dissemination.

53. Also deserving of mention are the creation in 1995 of the Consultative Committee of International Organizations for the Comprehensive Protection of Children in Guatemala (CCOIPINGUA) composed of the German Agency for Technical Cooperation (GTZ), UNICEF, AID, Redd Barna, Rädda Barnen, Redd Barnet, Plan International, Doctors without Borders, European Union, United Nations Volunteers (UNV) programme, United Nations Human Rights Verification Mission in Guatemala (MINUGUA), World Food Programme (WFP) and ILO-IPEC. This Committee's aims are to enhance national and international cooperation for improving the living conditions of Guatemalan children at risk and to serve as a permanent forum for information exchange.

54. CCOIPINGUA's activities focus on four major areas:

(a) Harmonizing criteria for developing a national strategy designed to achieve the sustainability of programmes receiving support in this sector.

(b) Exchanging experience and avoiding duplication within programme areas.

(c) Promoting the doctrine of comprehensive protection.

(d) Liaising with outside agencies with a view to mobilizing funds and information for activities in favour of children in Guatemala.

55. One example of cooperative action was the signing of the Master Plan of Operations for 1997-2001, established by the Secretariat-General of the National Economic Planning Council (SEGEPLAN) and the United Nations Children's Fund (UNICEF) in order to support and implement activities to improve the living conditions of women and children. This Master

Plan will be developed through the programmes for development of social policies and integrated basic services, to which UNICEF will contribute and administer US$ 24 million. Those programmes are in line with the Government's priorities, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the World Summit for Children, the Peace Agreements and Plan of Action for Social Development and Peace-building and the Children and Adolescents Code.

G. Preparation of the report

56. As Guatemala has been a signatory to the Convention on the Rights of the Child since 1990, the Office of the Vice-President of the Republic undertook this year to prepare the present report, and designated the Social Welfare Department of the Office of the President to head a consultation among the various governmental and non-governmental agencies with a view to collecting ideas and information that indicate the progress made in the implementation of the Convention.

57. To that end, a methodology consisting of three types of activity was planned and designed: compilation of documents, interviews, and mobilization of society through inter-institutional meetings.

Compilation of documents

58. This stage consisted of seeking out and reviewing essays, books, documents, research and press releases having recently addressed and analysed topics relating to Guatemalan children.

Visits and interviews

59. More than 50 visits and interviews were held with government officials and representatives of non-governmental organizations (NGOs) that promote child and youth care programmes and projects. Written information based on a specially prepared profile was also obtained from the various government departments.

Mobilization of society

60. Four inter-institutional meetings were held at social welfare (childcare) centres that provide care for children aged 0-7 in the departments of Zacapa, Quetzaltenango, Mazatenango and Baja Verapaz. They were attended by some 200 representatives of State bodies, the security forces, NGOs and members of the community, all of whom displayed their openness and readiness to enter into dialogue on the situation of Guatemalan children and the prospects opened up by the Children and Adolescents Code.

61. The idea that prevailed during the inter-institutional dialogue was that preparation of the report was the task of both State bodies (executive, judiciary and legislative) and civil society - organized or otherwise - as the main thrust of the Children and Adolescents Code is that achievement of children's rights is the responsibility of all Guatemalans. The inter-institutional meetings included a lecture by staff of the Commission for the Convention on the Rights of the Child (PRODEN) on the relationship between the Convention on the Rights of the Child and the Children and Adolescents Code.

62. The meetings culminated in a joint discussion that spawned a number of ideas, initiatives and general actions which included the following:

(i) Institutional conception of the current situation of children and young people in Guatemala

63. Participants concurred in the view that the current situation of children and adolescents was precarious and vulnerable, given the country's limited human, financial and infrastructure resources and the fact that those were largely concentrated on the urban areas. At the level of both the Government, childcare NGOs and civil society there is insufficient coverage of the needs and requirements that arise among that sector of the population.

(ii) Opinions on the new Children and Adolescents Code

64. The new Code is seen as a step forward for Guatemalan society in that it takes a holistic view of children and adolescents and recognizes them as subjects of rights and obligations. It also serves as an additional tool for punishing violations of the rights of children and adolescents. The sectors consulted were clear in stating that enforcement would necessitate political will on the part of the authorities, participation by civil society and provision of the resources needed to make it a reality.

(iii) Institutional action on behalf of children and adolescents

65. The following are among the areas of service provided by the participating institutions:

- Training and advanced training in the rights and obligations of children and adolescents;
- Parental education;
- Support and follow-up of complaints of any type of abuse;
- Criminal prosecution for offences committed against children and adolescents;
- Rehabilitation of disabled children and adolescents;
- Protection of street children;
- Guidance for the integration and active participation of children and adolescents in the community.

(iv) Factors limiting the development of action on behalf of children and adolescents

66. The following are the main constraints encountered by institutions in implementing programmes, projects and services for children and adolescents:

- Inadequate economic resources for implementing dissemination and specialized training programmes;

- Irresponsible parenthood;

- Discrimination based on age, gender and ethnic origin;

- Difficulty of access to appropriate and reliable data;

- Duplication of efforts by some government and non-governmental agencies, resulting from lack of coordination of initiatives;

- Geographical isolation of small settlements, villages and hamlets that are difficult of access;

- Certain sectors' lack of political will to become involved in projects in favour of children and adolescents.

(v) Institutional courses of action

67. Participants indicated that they planned in the first instance to learn to make proper use of the Children and Adolescents Code; to disseminate and promote its contents; and to join their efforts, through interdisciplinary and inter-institutional teams, in order to meet children's needs.

III. DEFINITION OF THE CHILD

68. Neither the Constitution of the Republic nor the Minors Code contains a specific definition of the concept of "child", "minors" being considered to be persons under the age of 18. Article 2 of the new Children and Adolescents Code, for its part, states: "For the purposes of this Code, a child is any person from the moment of conception to the age of 12, and an adolescent is any person between the ages of 12 and 18."

69. With regard to the concern expressed by the Committee on the Rights of the Child in relation to the minimum age for marriage in the case of girls, an initiative has been launched under the Women and Legal Reform Project of the National Women's Office, involving a proposed amendment to article 81 of the Civil Code, Decree Law 106, setting 16 as the minimum age at which young people may marry. That would be an improvement insofar as it would establish equal conditions for girls and boys.

70. Concerning the legally established minimum age of criminal responsibility and deprivation of liberty, article 160 of the Children and Adolescents Code states: "All persons aged at least 12 but under 18 at the time they commit an act in conflict with criminal law or special laws shall be subject to this law."

71. Similarly, with reference to the enforcement of age-related legal measures, it states that: "In trial proceedings, in the measures ordered and their implementation a distinction shall be made between two groups: the 12-14 age group and the 15-17 age group". It further stipulates:

"This section shall not apply to acts committed by children under 12 which constitute a crime or minor offence: their civil liability shall not be affected and shall be dealt with by the competent courts. Such children shall receive the required medical, psychological and educational attention in the care and custody of their parents or guardians and under the supervision of the juvenile courts."

72. These measures are in keeping with the spirit of the comprehensive protection doctrine in that they take the entire psychological, biological and social dimension of children into account and abandon the "irregular situation" approach taken in the previous legal structure.

73. In accordance with the provisions contained in the articles cited above, the new Code provides for the establishment of bodies for dealing with children in conflict with the law across the board from the local to the national level. In particular, the System of Operating Institutions for the Administration of Criminal Justice has launched the process for the required institutional and procedural reform.

IV. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

74. Guatemala has historically been an excluding and discriminatory society, a situation that has affected the quality of life of most children, especially those living in rural areas, who belong to indigenous groups, and the rural and urban poor. Girls are particularly hard hit by this situation.

75. However, the current socio-political situation produced by the ending of the armed conflict and the signing of the peace agreements is opening up possibilities for consolidating civil society initiatives, especially from the Maya and women's movements, which for a decade have been calling attention to ethnic and gender discrimination and proposing legislative, educational, political and other measures to minimize existing disparities.

76. In that regard, section II, Right to Equality, article 10, of the Children and Adolescents Code states: "The rights enshrined in this law shall apply to every child and adolescent without discrimination of any kind based on race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, economic situation, physical, mental or sensory impairment, sexual orientation, physical disability, birth or any other condition relating to themselves, their parents, relatives, guardians or the persons responsible for them."

77. An initiative currently being developed by the Ministry of Education with a view to eliminating sexist and racist stereotyping in educational material is the programme for girls linked to the National System for Improvement of Human Resources and Curricula, which uses gender methodology and an inter-cultural approach in the curriculum, text books and educational materials it produces.

B. Best interests of the child (art. 3)

78. Guatemalan society has been characterized by an authoritarian culture which has rejected the concept of best interests of the child, a situation experienced in everyday family life and evident both in the approach which has been taken to public policy planning and in the conduct of child-related programmes and projects. In order to abandon that approach, various sectors have begun a process of reflection and awareness-raising regarding what is meant by children's right to enjoy better living conditions and to develop their potential as human beings.

79. This viewpoint is legally embodied in the Children and Adolescents Code, which states that: "... the best interests of children and adolescents must be taken into account in any measures adopted in connection with them. For the purposes of this Code, the concept of the best interests of children and adolescents is understood to mean all actions designed to foster their physical, psychological, educational, cultural, moral, spiritual and social development with a view to achieving the full development of their personality.

80. The institutions which deal directly with children and adolescents are currently reframing their programmes to bring them into line with this principle. Owing to the magnitude and complexity of the process, it has been hampered by political and economic constraints, lack of infrastructure and poor inter-institutional coordination.

C. The right to life, survival and development (art. 6)

81. The information gathered through the National Survey on Maternal and Child Health (ENSMI-1995) reveals that a high percentage of Guatemalan children do not enjoy an adequate standard of physical and mental development. In that connection, the survey shows that for every 1,000 live births, 26 children die during their first month of life and another 25 die during their first year. Worthy of note is the disparity between infant mortality in urban areas (41 per 1,000) and the countryside (56 per 1,000), but also significant is the drop from 70 per 1,000 to 51 per 1,000 during the period 1985-1995.

82. By and large, the country's nutritional situation is geographically and ethnically inequitable in that the prevalence of chronic malnutrition is relatively low in the metropolitan area (34 per cent) compared to 70 per cent in the north-west with its largely indigenous population.

83. In order to improve the precarious health situation of Guatemalan children, and in accordance with article 6 of the Convention on the Rights of the Child, the Children and Adolescents Code states, "Children and adolescents have a fundamental right to life. It is incumbent upon the State to guarantee their survival, security and development". It further states that "they have a right to the protection, care and assistance needed for them to achieve adequate physical, mental and social development. They shall enjoy those rights from the moment of conception". This principle is reinforced in article 25, which stipulates that "Children and adolescents shall have the right to protection, to a decent life and to health, through the implementation of public social policies conducive to healthy and harmonious birth and development, in decent living conditions."

84. The Agreement on Social and Economic Aspects and Agrarian Situation contains a commitment to move ahead with reform of the health sector, which in its general lines of action pays priority attention to basic problems, especially those of the mother-and-child group.

85. The Government likewise undertakes to devote at least 50 per cent of public health spending to prevention and to reduce infant mortality by 50 per cent of the 1995 rate by the year 2000.

D. Respect for the views of the child (art. 12)

86. Children and adolescents have hitherto had scant opportunities to express their views and have received little respect, owing to the vertical and authoritarian structure of child-adult relations. Aiming at a new concept of adult-child relations, the Children and Adolescents Code states, "children and adolescents shall have the right to liberty, respect, dignity and the right of complaint as human beings in the process of development and as subjects of human and social rights guaranteed in the Constitution and the laws" (art. 12). Article 13 (b) guarantees the right of children and adolescents to "freedom of opinion and expression". Similarly, article 17 states that they "shall have the right to report violations of their human rights to the nearest local authority in order to guarantee respect for those rights and prevention of and reparation for violations".

87. One significant achievement of the new Children and Adolescents Code, which will ensure children's right to participate in decision-making on matters concerning them, is the inclusion as members of the National Children's Council of two representatives, one male and one female, elected by the student organizations. Article 102 also provides that the membership of the National Commission for the Protection of Child Workers shall include "a delegate, preferably aged 14-18, to be elected by the country's trade union federations".

V. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

88. The 36-year internal armed conflict inter alia caused situations involving internal displacement, exile and asylum for thousands of families, and those situations affected children, particularly indigenous children and children living in extreme poverty. The iniquities suffered by this population jeopardized the right of thousands of children to be legally recognized and have a nationality, owing in some cases to the destruction of the civil records of hundreds of communities and to the anonymity and clandestine circumstances in which thousands of families, especially indigenous families, were forced to live.

89. Moreover, while the civil registry certainly performs the task of registering births, some preliminary inquiries by women's groups and non-governmental organizations promoting citizens' participation have detected cases of children not being registered owing to the fact that the parents are ignorant of the procedure for doing so, or that the mothers also lack the requisite papers, or else because culturally it is not considered necessary. This situation notably affects girls in rural and marginal urban areas, and limits their right to education inasmuch as their enrolment in schools is made difficult.

90. To guarantee Guatemalan children their right to a name and nationality, article 14 of the Children and Adolescents Code states that "children and young persons are entitled to an identity, including a nationality and a name, to know their parents and be cared for by them, and to use their own forms of cultural expression and their own language. It is the duty of the State to guarantee their identity and to punish anyone responsible for the substitution, alteration or deprivation thereof".

91. One initiative aimed at remedying the above violation is the review currently being made by the Congress to introduce amendments to the proposed Special Personal Documentation Act, which is intended to meet the commitments contained in the Peace Agreements by providing special identity papers for internally displaced persons, refugees, returnees and former URNG combatants. For this Act to have a positive impact, mass registration campaigns have been planned in those places where the resettled and uprooted population is concentrated.

92. A situation that has also affected the right to a name is discrimination against children "not recognized by the father". In this connection, mention should be made of the approval in 1995 of a provision in article 4 of the Civil Code which grants single mothers the right to register their children with their two surnames in order to preclude such discrimination.

93. Concrete action is being undertaken at the executive level by the National Statistical Institute with support from UNICEF through a programme to improve the quality of vital statistics, i.e. information on births, marriages and deaths. The first stage of training is now under way for civil registrars in departments where the greatest incidence of under-registration has been detected.

B. Preservation of identity (art. 8)

94. A fact recognized during the negotiation and reflected in the text of the Peace Agreements is the segregation and discrimination that have prevailed in Guatemalan society and to which the Maya peoples especially have been subjected. That situation is evidenced by the precarious conditions of life - both physical and spiritual - of this group. It should be pointed out, however, that despite the cultural syncretism to which these peoples were subjected historically, oral tradition has maintained essential aspects of their world view, including their language and relationship with the land and nature. It has also to be understood that children, women and older persons in any human community, but especially in the indigenous communities, are a guarantee for the reproduction of culture.

95. These aspects are recognized in the Constitution, the Agreement on Identity and Rights of Indigenous Peoples and the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention (No. 169), ratified in 1996. These instruments provide a legal framework of paramount importance for applying the principle of the preservation of identity that will contribute to the all-round development of Guatemalan indigenous children.

96. The Children and Adolescents Code also recognizes the right of children and young people to preserve and promote their cultural identity by guaranteeing freedom of conscience, thought and religion and participation in family life without discrimination, in accordance with the cultural standards of the community to which they belong (art. 13), as well as "the right to

respect, which consists in the inviolability of the physical, psychological and moral integrity of children and young people, including the preservation of their image, identity, autonomy, values, ideas and beliefs, privacy and personal property" (art. 15).

97. It is important to note the establishment, pursuant to the commitments contained in the Peace Agreements and especially in the above-cited Agreement on Identity, of the Commission for the Officialization of Indigenous Languages, the Commission for the Definition of Holy Places and the Joint Commission on Educational Reform, which include representatives of indigenous organizations and the Government.

C. Freedom of expression (art. 13)

98. The educational process, begun in the family and strengthened by the formal and informal school system and the media, has been characterized by poor stimulation of the creativity and expression of children and young people in Guatemala. The future citizens' training, development and self-expression have been limited by the lack of facilities, scant institutional interest and small amount of resources that the State has allocated for this purpose.

99. In order to deal with this situation, the new Children and Adolescents Code embodies the right of children and young people to "freedom of opinion and expression; participation in the civic life of the country, the only restrictions being those stipulated by law; access to information, principally information which promotes their spiritual and moral development and physical and mental health" (art. 13).

100. As regards civil society, a number of non-governmental organizations, such as the Alliance for Community Youth Development (ADEJUC), Pro Niño y Niña Centroamericanos (PRONICE), the Association for Training and Technical Assistance in Education for the Disabled (ASCATED) and the Inter-Institutional Coordination Unit for the Rights of the Child (CIPRODENI), have instituted measures to promote and stimulate the self-expression and active participation in society of children and adolescents, seeing them as social subjects of rights. This new concept entails a redefinition of roles for the various components of the social fabric, especially children and young persons, the authorities, the family, informal sectors, social movements and institutions. As regards the artistic and cultural expression of children and young people, institutions such as the People's University, the University of San Carlos, TGW National Radio, various community radio stations and a number of private businesses are initiating and supporting ad hoc measures.

D. Freedom of thought, conscience and religion (art. 14)

101. One of the aspects most threatened by the authoritarian and rigid culture underlying the socio-political history of Guatemalan society is freedom of thought. The exercise of this right was severely limited in the past, directly affecting thousands of children and adolescents because of the violent persecution to which their fathers, mothers and other relatives were subjected. Religious expression, particularly that of indigenous peoples, was also restricted, which made the transmission of values between generations difficult and limited that aspect of the cultural development of children and young persons.

102. In this connection, the Agreement on Identity and Rights of Indigenous Peoples, in the section entitled "Spirituality", recognizes the importance of spirituality and the transmission of the values of indigenous people. It should be pointed out that the Commission for the Identification of Holy Places has already been established, its principal function being to identify holy places and establish rules for their preservation. The Government has also undertaken to ensure respect for the exercise of spirituality in all its manifestations and to promote in the Congress the reform of article 66 of the Constitution to stipulate that the State recognizes, respects and protects the various forms of spirituality practised by the Maya, Garífuna and Xinca peoples.

103. Article 13 (c) of the Children and Adolescents Code furthermore guarantees freedom of conscience, thought and religion.

E. Freedom of association and of peaceful assembly (art. 15)

104. With regard to this right, it must be pointed out that the social fabric in Guatemala has been damaged because for a long time no opportunity was granted, at any level, for social expression, including the self-expression of children and young persons, who have had few means to establish group organizations which would help them develop the leadership skills needed for them to participate responsibly in civic life.

105. Guatemalan society, including children, fortunately enjoys a new situation today which derives from the Peace Agreements and is characterized by an openness and an incentive - albeit incipient - for social participation within the framework of a culture of peace.

106. To strengthen this new situation, the Children and Adolescents Code guarantees the right to freedom for children and young persons, stating that freedom inter alia includes "freedom of movement, save for the statutory restrictions, and participation in the country's civic life subject only to the restrictions specified by law" (art. 13).

107. It is gratifying to note that both government institutions and non-governmental organizations are promoting measures for the civic and political training of young persons with the object of strengthening the process of democratization and peace in Guatemala. In this context, for example, the Social Welfare Department of the Office of the President is carrying out the Open Care Units programme in Coatepeque, Zacapa and Cuilapa to address aspects which will have a positive impact on the lives of more than 2,000 young persons, in their communities, families and at school.

108. Furthermore, the National Children's Council, backed by the executive authorities, is at present carrying out a social mobilization campaign involving more than 5,000 young persons of both sexes at national level, organizing workshops and cultural and sports activities to promote social participation in an environment of solidarity, peace and democracy. The Ministry of Health and Social Welfare is implementing an Adolescents Programme to promote health care, recreation and social participation for young persons.

109. One civil society initiative is the educational programme that the Guatemala Section of the Latin American Faculty of Social Sciences has been conducting since July 1997, for young persons aged between 16 and 23. Its main subject areas are: democratization and participation in civic life, human rights and the Peace Agreements; economic and social development and inter-ethnic and gender relations.

110. The non-governmental organization Alliance for Community Youth Development carries out projects seeking to promote the active participation of children in the community, in keeping with the Convention on the Rights of the Child and the new Code. Alliance programmes are conducted in eight departments.

111. For its part, the Inter-Institutional Coordination Unit, for the Rights of the Child (CIPRODENI), which brings together 13 organizations working for children, focuses in part on the development of child self-expression and is currently executing the project "Alternative Techniques for the Promotion of the Rights of the Child".

112. The National Action Committee for Children (CONANI) is conducting a "Community Youth Workers" project for children and young persons at risk. Its central concern is the right to education, along with issues of social communication, education for life and occupational training activities.

113. Some of the achievements include: the training of 90 youth outreach workers, coverage of 224 areas of extreme poverty, follow-up and strengthening of schooling for 1,340 children and work with five parents' groups. CONANI coordinates its efforts with the Unit for Protection of Child Workers of the Ministry of Labour, especially in the area of training.

114. The German Agency for Technical Cooperation (GTZ) inter alia supports the Youth Assemblies programme, which is being conducted on the premises of the National Youth Institute (INAJU) covering the metropolitan area. This programme seeks, through self-government, to develop positive leadership skills among children and young persons.

115. The new social and political situation is creating forums and needs for organization in all social groups, including young persons. An example of this is the work being conducted by the Oliverio Castañeda De León Foundation, whose primary goal is to revitalize the organization of middle-level students.

F. Access to appropriate information (art. 17)

116. In addition to the high level of illiteracy in the country, the media have shown scant interest in providing children with programmes and messages that would contribute to their all-round development.

117. Preference has been given to disseminating material in the media which to some extent reinforces a culture of violence and intolerance. Fortunately, the socio-political circumstances of Guatemala today offer opportunities for presenting alternative messages based on the concepts of peace, equality, justice and democracy.

118. Both the Children and Adolescents Code and the Agreement on Identity and Rights of Indigenous Peoples recognize the importance of the media for the defence, development and transmittal of cultural values and knowledge, having regard for the sociocultural diversity of the country. In the Agreement on Identity and Rights of Indigenous Peoples, the Government commits itself to taking steps to "create opportunities in the official media for the dissemination of expressions of indigenous culture and promote a similar opening in the private media", and "to regulate and support a system of informational, scientific, artistic and educational programmes on indigenous cultures in their languages, through the national radio, television and the written media".

119. Article 75 of the Children and Adolescents Code calls upon the media to "provide them (children and adolescents) with access to information and material from various national and international sources", "promote their direct participation in programmes and publications" and "disseminate, transmit, print and publish material and programmes in the Maya, Garífuna and Xinca languages".

120. The Code also anticipates the harmful effects of certain kinds of information when it calls for "the protection of children and adolescents from any information or material prejudicial to their upbringing, and the evaluation, classification and supervision of any information, performance, programme or material that may be made accessible to them. This also involves classifying any form of communication that might be prejudicial to the well-being of children and adolescents and making sure that the media establish separate categories of items for children, adolescents, families and exclusively for adults" (arts. 75 and 76). The Ministry of Culture and Sports is reorganizing the Office for Public Entertainment on the basis of the above principles and drawing up a specific project to that end.

121. Various public and private institutions, including the Office of the Children's Ombudsman, the Ministry of Labour, COPREDEH, CIPRODENI and ADEJUC, regularly disseminate materials to promote the rights of children and young persons, such as calendars, leaflets, posters, school exercise books and radio slots. An interesting initiative in this regard is the Information Service that the National Statistical Institute (INE) established in September 1997 for children aged from 8 to 12 years to encourage their effective use of data, especially numerical data, reflecting the current situation in the country.

G. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

122. Attention should be drawn to two situations that have severely affected Guatemalan children: one relates to the violations of their fundamental rights in the context of the armed conflict; the other stems from the conditions of poverty which have contributed to child neglect, the phenomenon of street children, drug addiction, delinquency and other factors exposing the child population to acts of abuse and street violence.

123. Such violence is carried out with impunity by adult aggressors and organized criminal gangs, and unfortunately even by some members of the forces of law and order, although this is certainly not an institutionalized practice. A much smaller number of children subjected to

torture or cruel, inhuman or degrading treatment or punishment are victims of kidnapping. Kidnapping for economic ends was originally directed against an adult segment of the Guatemalan population, but more recently it has affected children.

124. While there is still no specific policy for minimizing the effects of this violence against children, the government bodies responsible for public security have opened facilities such as the Minors Unit of the Criminal Investigation Department and the Human Rights Office of the National Police, which has a unit dealing with the rights of children and also runs a training programme in this connection for the new National Civil Police.

125. Joint action by the Human Rights Office of the National Police, the Presidential Commission for Human Rights (COPREDEH), the Public Prosecutor's Department and the Casa Alianza Association (non-governmental organization) is being undertaken through the Standing Commission on Children and Adolescents (COPANJ), whose functions have been officially regulated since 1995 with the object of promoting legal and social action to secure respect for and observance of the rights of children and adolescents who have been threatened or whose rights have been violated. COPANJ is currently following up 114 complaints of violations of the human rights of children and young persons, of which 83 have been submitted by Casa Alianza and 31 are being taken up on its own initiative. A total of 114 criminal cases have thus been brought against National Police officers, private security agents and private individuals who have committed violations against or abused street children.

126. The new Children and Adolescents Code, in responding to this problem, has made provision for complaints and special protection, as stipulated in article 16: "It is the duty of the State and society at large to ensure the dignity of children and adolescents, sparing them from any inhuman, violent, terrorizing, humiliating or coercive treatment."

VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

127. There are a variety of family structures in Guatemala, both in urban and in rural areas. According to the 1995 National Survey on Maternal and Child Health, women represent 20 per cent of all heads of households, but it should be pointed out that the actual figure could well be higher. This situation, which stems from factors such as poverty and cultural patterns that lead to high birth rates, including early pregnancies, irresponsible fatherhood, and ordinary or political violence, affects the development of children's potential, as households with female heads generally show marked levels of poverty.

128. The new Children and Adolescents Code urges families to assume their responsibility to guarantee the right of every child "to be brought up and educated within his or her family" (art. 18). It also lays down other obligations for fathers, mothers, guardians or others responsible for children with regard to giving children affection and such material support as they can afford. It further requires the State "to promote, by every means, the stability and well-being of the family as the basis of society and to provide the child or young person with a harmonious family environment" (art. 19).

129. Another aspect that must be considered is the orphaning of children under 15 years of age, especially in areas where the armed conflict was most intense. In this connection, the findings of the above-mentioned Survey in 1995 revealed that the percentage of fatherless children by area of residence is highest in the departments of Chimaltenango (4 per cent) and El Quiché (3.8 per cent), and the percentage of motherless children is highest in the departments of Alta Verapaz and Chimaltenango, at 2.3 per cent and 1.6 per cent, respectively.

130. Such situations of threat to or violation of the human rights of a high percentage of children and adolescents are recognized in the Children and Adolescents Code (art. 77), which addresses these situations inter alia by placing the State under the obligation to "coordinate actions and institute programmes to promote family unity and stability and to ensure that orphaned children and young persons are handed over immediately to other relatives; it shall give priority to children and young persons who have been orphaned as a result of the internal armed conflict and shall draw up and implement sex education programmes to encourage responsible fatherhood and motherhood" (art. 78).

131. Public policies as set out in the Plan of Action for Social Development and Peace-building 1996-2000 have also made it a priority "to strengthen the family as a means of securing ethical and cultural values and transmitting them to the community, and promoting family stability and authenticity as a basic element for the appropriate upbringing of new generations". Some concrete measures in this respect are the school for parents and the Comprehensive Care Programme for Children Under Six (PAIN), sponsored by the Ministry of Education. The school for parents programme is also being implemented by the Social Welfare Department in 42 of its centres nation-wide.

132. There have been initiatives from non-governmental organizations and the private sector to set up schools for parents, including those run by the Society for the Protection of Children in the Metropolitan Area. In 1994 Guatemala established the National Commission for the Family and the departmental commissions, coordinated by the Office of Social Works of the First Lady (SOSEP), for the purpose of undertaking public information and awareness-raising activities to restore fundamental values conducive to family integration.

B. Parental responsibilities (art. 18)

133. There can be no doubt that the most important people in a child's life are the father and mother; children's physical, moral, intellectual and emotional development depends in large measure on their relations with their parents and on their immediate family environment. A great majority of Children in Guatemala face the continued risk of suffering the consequences of family break-up, insufficient income, parents with addictions or employment from an early age. Unfortunately, not enough good-quality and accessible childcare services have as yet been set up either in the public or in the private sector. This situation particularly affects children from poor households, which represent approximately 65 per cent of the total number of households.

134. The Children and Adolescents Code says that "the State through the competent bodies shall set up programmes for the comprehensive care of children under six years of age" (art. 34). Furthermore, the Code requires institutions catering for children to reorient their activities, and in

that connection the Social Welfare Department, as part of its restructuring exercise, has provided for the transformation of traditional childcare centres at national level into integrated services centres in order to meet children's various needs.

135. In 1991 SOSEP instituted a programme for alternative care to be provided by local mothers within their own communities. This programme caters for 15,000 children under 7 years of age in 1,500 homes offering full-time day care and 50 homes offering half-time care.

136. A new arrangement for care is being implemented at 10 community child centres located in the departments of Sololá, Retalhuleu, Chimaltenango and Zacapa (Teculután), each of them taking in 30 children under the age of 7 years. This is a pilot project which should be extended in 1998 to include 1,000 community childcare centres located in 170 towns in the country's 22 departments, on the basis of the priorities defined in the 1996-2000 Government Plan.

137. Other institutions that provide day care for children are the Municipality of Guatemala and the Society for the Protection of Children. Some community outreach organizations also offer solutions for the care of pre-school children, including a few Catholic and Evangelical religious orders.

C. Family reunification (art. 10)

138. One of the major collateral effects of the armed conflict was the disruption of family life, which especially affected indigenous children and young persons in rural areas. Approximate data from various sources indicate that, at its height, the conflict accounted for more than 150,000 deaths and over 45,000 disappearances (Jonas, Monzón, Zepeda, 1996).

139. In view of this situation and of the need for Guatemalan society to preserve family unity, an undertaking was made in the Peace Agreements "to initiate the necessary measures to make possible the reunification of URNG members with their families. The Government is committed to providing all facilities to this end". To strengthen this undertaking, the Children and Adolescents Code provides that "the State shall support programmes to locate the parents or relatives of any child or adolescent and gather information that might facilitate family reunification" (art. 20).

D. Adoption (art. 21)

140. The problem of the abandonment of thousands of children is attributable to many causes:

(a) Socio-economic causes, reflected by the enormous number of poor households in rural and marginal urban areas;

(b) Cultural causes, as evidenced in high fertility rates (5.1 children per woman) and a large number of undesired pregnancies associated with a lack of sex education and irresponsibe parenthood;

(c) Socio-political causes, since the internal armed conflict gave rise to various categories of children - for example, those having lost a father, mother or both parents; those forcibly separated from their families; those internally or externally displaced; and those adopted temporarily or permanently by relatives, friends or members of the community.

141. While adoption is a positive response to abandonment, the laws governing adoption in Guatemala are ambiguous. This has resulted in irregular practices including illegal trafficking in children for adoption, especially by foreign families, as studies have shown that 95 per cent of all adoptions in Guatemala are inter-country adoptions.

142. This aspect is illustrated by a recent study made by the Casa Alianza Association in coordination with the Office of the National Procurator-General, which points to the existence in Guatemala of networks of child traffickers linked to third countries, the involvement of private homes in the illegal taking of children for adoption, and irregularities in some of the judicial bodies that deal with adoption proceedings. This joint action by an NGO and a governmental body is designed to provide information contributing to the elimination of such practices pending the approval of a new Act on Adoption, which is currently being examined in the Congress.

143. The Children and Adolescents Code stipulates on this subject that "the State recognizes the institution of adoption of children and adolescents and shall ensure that primary consideration is given in this process to the best interests of the child", and also that "only the competent authorities shall determine, in accordance with the applicable laws and procedures and on the basis of all relevant and reliable information, that the adoption is admissible. The law on this subject shall regulate matters relating to adoption" (arts. 22 and 23).

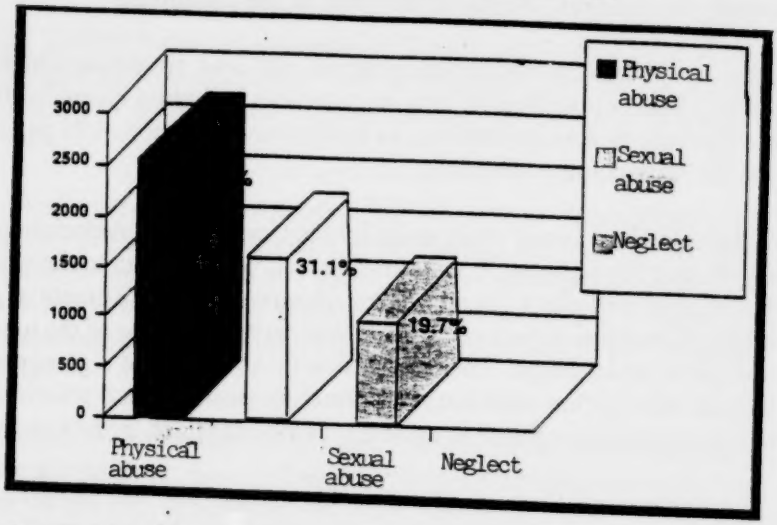
E. Abuse and neglect, including physical and psychological recovery and social reintegration (art. 39)

144. In recent years governmental bodies and NGOs have been showing interest in and concern to highlight the dimensions and effects of child maltreatment and the injuries to the physical and mental health of children and adolescents who have been victims of the internal armed conflict.

145. In this respect, attention should be drawn to recent studies which include a historical, social and legal analysis of the types and incidence of abuse by region, sex and age. These studies were of an exploratory nature and were conducted on the basis of information provided by national hospitals and forensic medicine offices. Some of this information is presented in the following two graphs:

Figure 2

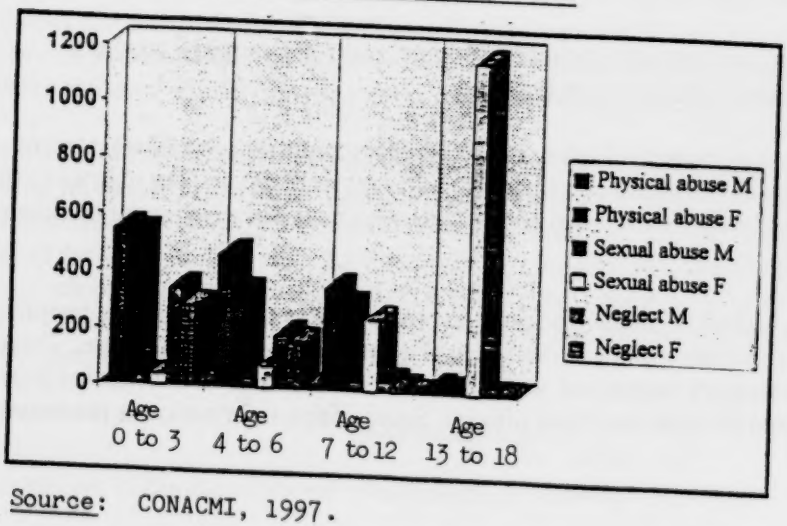
Cases of child abuse (1992-1995)



Source: CONACMI, 1997.

Figure 3

Child abuse by age and sex



Source: CONACMI, 1997.

These charts show that the commonest forms of maltreatment are physical abuse, sexual abuse, particularly of girls aged between 13 and 18 years, and child neglect.

146. The Office of the Children's Ombudsman has recorded 465 complaints of ill-treatment or abuse to date for 1997, as against more than 300 for 1996. This increase shows that people are more frequently turning to the appropriate bodies to file complaints.

147. A significant development in the legal field is the Act to Prevent, Punish and Eradicate Intra-family Violence, passed in November 1996, which states in article 2 that "the application of protective measures to guarantee the life, integrity, safety and dignity of the victims of intra-family violence includes special protection for women, children, older and disabled persons". The text of this Act has been translated into K'iché.

148. The Children and Adolescents Code states, "children and adolescents have the right to be protected against any form of ill-treatment", and that "the State shall adopt all measures to protect them against any form of physical or mental abuse, lack of care or neglect, sexual abuse and exploitation" and shall also "encourage the creation of preventive or psychosocial institutions and programmes to provide support and guidance to the family and the community, and shall arrange for the necessary assistance, treatment and rehabilitation of the victims, those who care for them and the perpetrators" (arts. 55 and 56). The staff of public and private institutions, educational centres, health services and other services dealing with children shall report any suspected or confirmed cases of ill-treatment which they have detected or are treating in their institutions.

149. It should be pointed out that measures to reduce child maltreatment in Guatemala have been strengthened in recent years through the integration and coordination of efforts by NGOs and governmental organizations with international assistance. A tangible result of these efforts is the National Commission against Child Abuse (CONACMI), which has been receiving institutional support from the Human Rights Procurator since 1996.

150. Governmental bodies are carrying out measures in various spheres: prevention of maltreatment, strengthening of the complaints procedure in maltreatment cases and medical and psychological care for child victims of various kinds of maltreatment. The institutions directly involved in carrying out maltreatment programmes are the Public Prosecutor's Department through the Complaints Office, the Office of the National Procurator-General and its Minors Unit, the Ministry of Education, the Guatemalan Social Security Institute and the Ministry of Health, which has set up committees against child abuse in a few hospitals within the national network. These bodies work closely with the Children's Ombudsman and other non-governmental organizations.

151. Many of these measures are supported and followed up by various international cooperation agencies. For example, Redd Barna of Norway recently coordinated with CONACMI to offer training in the prevention of abuse for 935 teachers working in zones 3,7,12,16,17,18 and 21 of the capital, considered to be at greatest risk of maltreatment.

152. Furthermore, with a view to decentralizing inter-agency efforts in this field, the "Prevention and Care Network for Child Abuse" project has been initiated to provide a comprehensive approach to the issue of child maltreatment. A first trial phase has included the departments of Zacapa, Jalapa, Progreso and Sacatepéquez.

153. To raise awareness among the general public of the devastating effects of child abuse, CONACMI, with the support of the mass media, conducted the "National Campaign against Child Abuse" in 1996, as part of the Central American campaign on the same theme, with the

slogan "No blows that hurt, no words that wound ... Let's educate with tenderness". A second campaign against child abuse is being prepared this year, and the inter-institutional coordination process has been initiated at governmental and non-governmental level.

VII. BASIC HEALTH AND WELFARE

A. Disabled children (art. 23)

154. From the document "Development policies for the provision of services for the disabled", drafted in 1995 by various non-governmental organizations in coordination with the Secretariat-General of the National Economic Planning Council, it can be seen that, despite the efforts to this end, it has proved impossible to determine the exact number of people with disabilities and the social and economic consequences of this condition. Furthermore, society's perception of disability is reflected in discriminatory attitudes, myths and stereotypes, leading to the rejection and marginalization of disabled children. Even the non-governmental organizations themselves are not innocent of such attitudes and prejudices (Búrbano, 1996).

155. The 1994 national population census estimated, however, that there were approximately 20,000 children with physical, sensory and mental disabilities, more than half of whom lived in rural areas. For its part, a recent study indicates that, although there is no specific information available on the numbers of war-traumatized children, data from the Ixil and Ixcán areas show 641 cases of children with disabilities (Zepeda/Meneses, 1996).

156. The new Children and Adolescents Code states that "children and adolescents with physical, sensory and mental disabilities shall have the right to enjoy a full and decent life" and to "receive special care, free of cost, bearing in mind the economic situation of their parents or of other persons caring for them. This right shall include access to an early stimulation programme, health services, rehabilitation, recreation and training for work, and if any of these services are not available, their creation shall be encouraged" (arts. 48-50).

157. An important step forward in this area was the promulgation of Decree No. 135-96, "Act on the provision of services for persons with disabilities". This piece of legislation provides an effective tool for the disabled, including children and adolescents, their parents and other family members, in enabling them to exercise, without discrimination, their human rights and their civic obligations. To ensure the implementation of the Act, it includes the establishment of a national council for disabled persons, made up of representatives of the public sector and of civil society, including the country's universities. This council has already been set up with government and non-governmental representatives who are to exercise the functions stipulated in the Act.

158. For its part, the Ministry of Education has strengthened the special education system with the creation of its Department of Special Education, by Government Agreement No. 156-95. Since 1997, the Department has been provided with its own budget, although this is not sufficient to meet the needs of the country's disabled schoolchildren.

159. Two special activities were conducted, in June and July 1997, by non-governmental organizations working with the disabled: the Eighth Guatemalan Seminar on Special Education, organized by the Neurological Institute on the theme "Disabled children in the peace process",

with the participation of a number of different institutions. For its part, the Association for Training and Technical Assistance in Education for the Disabled (ASCATED) held a training course for community facilitators from 12 departments in the north-eastern and western regions of the country. Participants expressed the view that discrimination against disabled children and adolescents still occurred, since even parents were unaware of their childrens' rights. Suggested ways of dealing with this problem included: decentralizing and expanding direct care services; establishing a medium-level professional qualification for teachers specializing in the teaching of disabled children; conducting public awareness campaigns in all languages, to raise awareness of the situation and rights of disabled children and adolescents.

B. Health and health services (art. 24)

160. The health levels of the Guatemalan population, especially of children in the countryside and in marginal urban areas, are inadequate and are linked with the country's high rates of poverty and extreme poverty. Certain factors, like nutritional deficiencies, lack of sanitation facilities and limited access to preventive and curative health services, combined with low rates of school attendance, are directly responsible for the poor state of children's health.

161. ENSMI-95 indicators show an infant mortality rate of 51 per 1,000 live births, with wide differences between the various geographical regions (the highest being in the central region, at 73 per 1,000 and the lowest in the metropolitan region, with 43 per 1,000) and between the different ethnic groups (64 per 1,000 for the indigenous population and 53 per 1,000 for the Ladinos).

162. Similarly, data on the nutritional status of children under five show that 50 per cent suffer from chronic malnutrition and 24 per cent from severe malnutrition. Broken down by areas, nearly 6 out of every 10 children in rural areas suffer from malnutrition, while the proportion in urban areas is 1 in every 4. Twenty-seven per cent of children under five are underweight for their age.

163. The main causes of infant morbidity and mortality are preventable diseases such as respiratory, diarrhoeal and contagious or infectious diseases which, according to data from the study referred to above, affect children differently, depending on sex, age, ethnic group and the area where they live. Thus the number of children under five falling sick and dying is higher in regions with a predominantly indigenous population, such as the central, northern and north-western regions.

164. Other important findings in ENSMI-95 relating to maternal health demonstrate how maternal health relates directly to the survival of the foetus and the health of the child in the early stages of life. These include the high fertility rates (5.1 children per woman), which are closely tied to the high maternal mortality rates (200 per 100,000 live births) and also to other factors such as high parity, short birth intervals, economic hardship, social and cultural privation and lack of access to health care.

165. One factor with a far-reaching impact on the lives of children and adolescents is early pregnancy. The ENSMI-95 study found that 21 per cent of teenage girls aged between 15 and 19

had already borne children or were pregnant with their first child. Fertility rates among adolescents are even higher in the north of the country, where the adolescent birth rate is almost double that of the metropolitan region.

166. This scenario is based on data from ENSMI-95, an inter-institutional undertaking which both documented improvements in the area of health care, and identified or confirmed major differences between the various population groups.

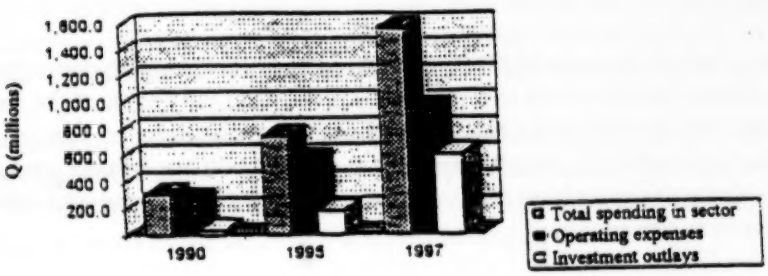
167. At the legislative level, besides the obligations assumed by the State in the area of health care, as set forth in article 94 of the Constitution, the new Children and Adolescents Code states, "Children and adolescents shall have the right to protection, to a decent life and to health, through the implementation of public social policies conducive to healthy and harmonious birth and development, in decent living conditions." It also guarantees universal and equal access to measures and services for the promotion, protection and recovery of health and stipulates that "the vaccination of children shall be obligatory in cases recommended by the health authorities" (arts. 25, 29 and 32).

168. With regard to children's health, one of the Government's commitments pursuant to the Agreement on Social and Economic Aspects and Agrarian Situation, is to allocate "at least 50 per cent of the public health expenditure to preventive care and to cut the 1995 infant mortality rate in half by the year 2000". Accordingly, the Government is trying to boost access to health services, to expand their coverage and to improve their quality, with a focus on preventive medicine, primary care and educational programmes. Allocations to this sector, in accordance with the established policy, are earmarked for measures to ensure the effective exercise by the people of their fundamental right to health, without any discrimination. These resources, which have grown steadily over the last few years, are channelled into preventive health programmes (mother and child health, environmental sanitation and epidemiology); primary medical care (health centres and health stations); curative health care (general and specialized medical attention) and food security (school meals).

Figure 4

CENTRAL GOVERNMENT

TOTAL SPENDING ON HEALTH AND SOCIAL WELFARE



Source: Ministry of Finance

169. Following the qualitative changes to the public health care system, the Ministry of Health has launched its Comprehensive Health Care System (SIAS), based on the provision of health services using already existing infrastructure, whether from the public sector, private enterprises or non-governmental organizations. This strategy, will make it possible to integrate more than 600 non-governmental organizations registered in Guatemala, of which, regrettably, only 30 have previously had formal links with the Ministry of Public Health, in the form of cooperation agreements.

170. Other programmes being conducted by the Ministry of Health and Social Welfare include a national plan for the reduction of maternal and perinatal mortality and a national mother and child programme, which includes the innovative Casas de Espera project, already under way in the six departments with the highest maternal mortality rates.

171. Another significant development in the national mother and child programme is that it now covers health care for adolescents. To this end, a project entitled "Standards for health advocacy and comprehensive health care for adolescents" is already being developed, in coordination with NGOs and young people in different areas of the country.

172. The Ministry of Health has also conducted the following activities over the last two years:

(a) **Awareness-raising activities**, aimed at medical and paramedical staff and non-governmental organizations of the Ixil area in the north-west of the country;

(b) **Research activities**, to ascertain the situation of adolescents, with regard to such factors as family circumstances, drug addiction, sexuality and reproductive health;

(c) **Social mobilization activities**, such as the meeting of adolescent mothers and fathers and the national forum of young people to promote their vision of a peaceful future, attended by 28 leaders from 14 departments, representing different social and cultural groups.

173. Attention is also drawn to certain activities recently launched to attend to the needs of adolescent mothers. These include, at the government level, the San Juan de Dios hospital and such non-governmental organizations as the Asociación Niña Madre and Casa Alianza, which are working in the metropolitan area, and Manos Amigas in the Chimaltenango area.

174. Activities for children under five are continuing in two main areas:

(a) **Child nutrition**, through the National Commission for the Promotion of Breastfeeding (CONAPLAM), which has been encouraging, promoting and protecting the practice of breastfeeding in Guatemala for the last 15 years. The Commission is conducting a project entitled "Self-care in mother and child health", aimed at 45 communities and 47 primary schools in the northern region, which is being coordinated with the National Fund for Peace (FONAPAZ);

(b) **Prevention of childhood diseases**, through a programme of vaccination against the primary vaccine-preventable diseases. During the period 1996-May 1997, the Ministry of Health provided the following vaccination coverage:

VACCINATION OF CHILDREN UNDER FIVE
1996-1997

1996	%	1997 (May)	%
OPV3	73	OPV	26.73
DPT3	72	DPT	26.72
Measles	69	Measles	26.04
BCG	76	BCG	34.86

Source: Ministry of Health and Social Welfare, 1997

175. The ENSMI-95 National Survey on Maternal and Child Health found that, although the levels of vaccination against childhood diseases were high, the coverage of the complete vaccination scheme was still low in certain population groups and that, for various reasons, the necessary follow-up vaccinations were not being administered.

176. The Ministry of Health has launched its "Healthy Schools" project, targeted at school-age children, with the aim that all schools will meet the minimum health education requirements and, for that purpose, it has trained 1,000 community educators.

177. Another important step was the recent launching of the degree course in child health care, aimed at boosting the "health and quality of life of Guatemalan children". This academic programme has been organized by the Guatemalan Association of Doctors and Surgeons, San Carlos University, the Guatemalan Social Security Institute, the Ministry of Public Health and the Institute of Nutrition of Central America and Panama.

178. In the non-governmental sector, the inter-institutional Committee for the Provision of Services to the Population in Marginal Areas of Guatemala (COINAP) is developing an integrated health programme, which focuses on primary health care: prevention, immunization, parasite control, and distribution of vitamin A. The integrated health programme covers 85 communities and reaches approximately 83,000 children.

179. To strengthen the activities conducted by the Ministry of Health and Social Welfare, the following agreements have been concluded with various international organizations:

COOPERATION AGREEMENTS IN SUPPORT OF THE GOVERNMENT OF GUATEMALA

Agreement	Project	Period
ALA 91-95 U.E.C.A.	Mother and Child Health	1994-1997
AID-GUA. 520-0257	Mother and Child Health	1992-1997
UNFAP/GUA. 96/PO1	Maternal mortality	1997
MOTHER CARE II, Phase II	Maternal and perinatal care	1997-1998

Source: Ministry of Health and Social Welfare, 1997.

Sexually transmitted diseases, HIV/AIDS

180. According to World Health Organization (WHO) estimates, there are between 50,000 and 100,000 persons infected with HIV in Guatemala. According to official Ministry of Health figures, however, over the last 14 years only 1,800 cases of AIDS have been registered. Ministry officials believe that the under-registration rate is approximately 80 per cent, meaning that there are a further 1,400 persons affected with this disease.

181. An estimated 7 per cent of the AIDS-affected population are minors. In 61 per cent of these cases the infection pathway was perinatal (mother to child); in 7 per cent through the blood and in 32 per cent by sexual transmission, in particular when children were victims of sexual abuse, coercion or exploitation.

182. Data from an NGO, the Guatemalan Association for the Prevention and Control of AIDS (AGPCS), indicate that one third of the children (4,000 to 5,000 children) of the 40,000 adults estimated to be infected are themselves currently infected and will die in the next few years from AIDS and according to projections, the surviving, non-infected two thirds (9,000 to 15,000 children) will be orphaned.

183. The spread of AIDS is connected with various factors, including low educational levels, a patriarchal culture and limited access to health services and to sex information and education; this last factor is evident in the ENSMI-95 survey which indicates that the persons least well informed about AIDS are young indigenous women (15 to 19 years old) in the rural areas with low education levels.

184. In Guatemala, as in other countries, the work of awareness-raising, research and direct efforts to tackle this health problem has largely been carried out by non-governmental organizations. For various reasons, Governments have not given much attention to this issue. It should be noted, however, that activities are being launched by the Government of Guatemala, through both the legislature and the executive and through civil society, to coordinate efforts to address this pandemic.

185. Work is under way in the legislature to analyse two interesting initiatives, one specifically on AIDS and the other on the encouragement, promotion and protection of breastfeeding, which includes the establishment of breast milk banks for newborn infants at risk, especially those born to HIV-infected mothers.

186. At the executive level, the Ministry of Health, through the national AIDS programme, is stepping up its efforts in the area of epidemiological monitoring, with a view to compiling more reliable records. One element of this programme was the conduct, in August 1997, of the first AIDS information campaign, with contributions from non-governmental organizations and the media. This national campaign, which included messages in Mayan languages, was designed to raise public awareness about the serious extent of this disease in the country and to establish measures to prevent infection.

187. Other HIV/AIDS-related activities carried out in 1996 and 1997 by national and international non-governmental organizations addressed the following areas:

(a) **Prevention**: a project on the prevention of STDs and HIV/AIDS for young men and women in marginal districts of the city, run jointly by AGPCS, Doctors without Borders, the neighbourhood associations and the health centres;

(b) **Training**: workshops were run by the organization Comunidades Responsables frente al SIDA (CRESIDA) for adolescents of both sexes, to prepare them to work as facilitators and community educators in the area of the prevention of sexually transmitted diseases and AIDS. These facilitators more than 10,000 consultations and have distributed more than 20,000 sets of information leaflets to the general public in the metropolitan area;

(c) **Direct care**: the Luis Angel García Family Clinic has been opened, under the supervision of AGPCS, to provide direct care and comprehensive support to people (including young people) living with HIV/AIDS;

(d) **Social mobilization**: the coordinator of the AIDS-control sectors launched a process of social mobilization in 1997, as part of the activities to mark World AIDS Day, which were dedicated to children; the slogan was "Children in a World with AIDS".

C. Social security and childcare services and facilities (art. 26 and art. 18, para. 3)

188. The social security system currently operating in Guatemala, primarily through the Guatemalan Social Security Institute (IGSS), is limited in range, as it covers only the economically active population working under formal contract (30 per cent) and provides all its services only in certain regions of the country, with a strong concentration on the metropolitan area, leaving a large proportion of the rural population without coverage.

189. Social security coverage rates for children are low, with children over the age of five excluded from the accident and sickness coverage provided by the medical services to which their parents belong (Mesa-Lago, 1997).

190. Although working children and young people can avail themselves of the services offered by IGSS, they must be registered with the Institute, a requirement that very few can meet, as the large majority work in the informal sector without any legal status.

191 With regard to childcare services, the Labour Code obliges enterprises with 30 or more employees to provide childcare services for children under the age of three. Observance of this rule is very limited, however; very few private enterprises and even autonomous and semi-autonomous government institutions comply with it. Admittedly, these services have been available both in governmental and in non-governmental sectors, but the assistance provided is of a traditional kind and its coverage insufficient to meet the demand and the needs of the working population (mothers and fathers).

192 Among the institutions offering services are the Social Welfare Department, the Guatemala City municipality, the Guatemalan Telecommunications Company (GUATEL), the Ministry of Finance, the National Police, the Office of the Human Rights Procurator and the community day-care centres programme. Services are also provided by non-governmental bodies, such as the Sociedad Protectora del Niño and day-care centres run by some religious denominations.

D. Standard of living (art. 27, paras. 1-3)

193 According to official estimates by the Bank of Guatemala, the country has the highest gross domestic product (GDP) in Central America, amounting to US$ 15,630.1 million in 1996, with an annual per capita income of US$ 1,200, as reported in the study, "Guatemala, public social expenditure and its efficiency", carried out by the Secretariat-General of the National Economic Planning Council (SEGEPLAN) as part of the "Ruta Social" project (1996).

194 Public expenditure on education and health represents some 2.7 per cent of GDP, a lower proportion than in most countries of Latin America. Although efforts have been made through the Fondos de Intermediación Social (social intermediary organizations), to promote the conduct of projects in the health and education sectors, further work is still required to identify investments and to coordinate the projects.

195 The economically active population is 3.2 million, representing 26 per cent of the total population. The proportion of children and young people (26 per cent) and women (24 per cent) in the workforce is growing as a result of the urbanization process and general impoverishment.

196 Underemployment has worsened over the last 10 years, growing from 31.2 per cent in 1980 to 41 per cent in 1990, without taking into consideration the growth of the informal sector (from 29 per cent in 1985 to 34 per cent in 1990). The workforce has an average of 3.2 years of education; among the poorest workers the figure is less than two years.

197 Poverty is widespread both in the countryside (76.5 per cent) and in the towns (51 per cent). In the 1980s, the number of poor increased by 2.8 million and the problem was particularly severe among the indigenous population, who constituted 65 per cent of the poorest decile of the country's population. The areas with the highest density of indigenous people were also those with the lowest rates of school attendance and access to social services.

198. These conditions render it difficult for people to enjoy a standard of living and quality of life conducive to the physical, mental, spiritual, moral and social development of children and young people, since families' basic needs remain unsatisfied. Data provided by the national social indicators system show that 88.9 per cent of the population aged between 0 and 14 live in a state of poverty and that 70.6 per cent of this group are destitute.

VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

199. Key features of the Guatemalan education system are a centralized administration, services and resources concentrated on certain areas and groups, an inflexible school calendar, poor coverage and high drop-out and repetition rates, characteristics which, combined with the high poverty rate, have restricted children's opportunities to enrol in and remain at school. The situation is depicted in the 1994 National Population Census, which shows that 35.7 per cent of the population aged 15 or over was illiterate and that 81.7 per cent of the illiterates lived in rural areas. These failings are still more marked among indigenous groups and women; the (mainly indigenous) population of the Ixil district and the north of the departments of Alta Verapaz and el Quiché, with an illiteracy rate of 76 per cent, is one example.

200. The latest figures for school attendance show that gross enrolment at the pre-primary level alone rose from 22.7 per cent to 32 per cent between 1980 and 1995; at primary school it rose from 54.8 per cent to 64.7 per cent; at the middle-school level, from 22.9 per cent to 31.9 per cent and at the senior level, from 10.1 per cent to 13.7 per cent. As regards gross enrolment of girls in primary school, the figures for 1995 indicate that 78 in every 100 girls in urban areas attended school but that the situation in the countryside was much worse, with only 59 in every 100 girls enrolled.

201. Looking at how efficient the education system is internally, one sees high repetition rates, especially in the first three grades of primary schooling where they stand at 26.7 per cent, 15.4 per cent and 12.1 per cent respectively. Drop-out rates at the different levels are also high: 9.4 per cent in pre-primary, 7.7 per cent in primary and 7.6 per cent over the basic cycle. In addition, the incidence of absenteeism, truancy and over-age pupils is high, which places further obstacles in the way of efforts to expand educational coverage.

202. As far as bilingual education is concerned, although 42.8 per cent of the population is of Mayan stock intercultural, bilingual education is only offered in four Mayan languages at 1,300 rural schools at the pre-primary level and in the first three grades of primary schooling.

203. Some 4,455 individuals were enrolled in extramural education programmes, with training in economically productive and social projects, in 10 departments in 1994. A further 1,663 were enrolled in modular education. It is, nevertheless, clear that formal extramural education is limited in scope and that its operation and objectives need to be re-examined.

204. Regarding access by young people to vocational guidance and training programmes it must be pointed out that there is a bare minimum of such programmes, whether Government-run or not. This restricts job prospects and access to higher levels of working skills.

205. Given the scale of the problems in education two overall strategies were incorporated into the Plan of Action for Social Development and Peace-building 1996-2000 with the aim of giving effect to the constitutional right to education; these are consistent with the commitments as regards education given in the Agreement on Identity and Rights of Indigenous Peoples and the Agreement on Social and Economic Aspects and Agrarian Situation. They are designed to "strengthen the culture of peace and intercultural education based on democracy, respect and the protection of the environment in all education-system activities" and to "increase the coverage of the education system, particularly at the pre-primary and primary levels, with an emphasis on intercultural bilingual education and education for girls in rural and deprived urban areas".

206. The Peace Agreements also specify action to be taken to minimize educational shortcomings at all levels:

(a) Facilitate access by 7- to 12-year-olds to at least three years' schooling by the year 2000;

(b) Raise the literacy rate to 70 per cent by the year 2000;

(c) Help to ensure that national-level vocational training programmes reach at least 200,000 workers before the year 2000;

(d) Put into effect the national civic education for democracy and peace curriculum to promote the defence of human rights and the peaceful settlement of disputes.

207. Important steps have been taken pursuant to these Government commitments, such as the establishment of the Advisory Committee on Educational Reform, which includes a delegation from the education reform commission called for in the Agreement on Identity and Rights of Indigenous Peoples. The Advisory Committee will adjust curriculum content to help eradicate stereotypes and discrimination based on sex, ethnic origin, class or degree of poverty.

208. The new Children and Adolescents Code likewise sets forth the right of "children and adolescents to receive a thorough education designed to foster their personalities, civic sense and manners, to promote awareness and enjoyment of human rights, the importance and necessity of life in a democratic society in peace and liberty in accordance with the law and justice, so as to prepare them for civically minded, responsible adult life" (art. 38).

1. Education budget

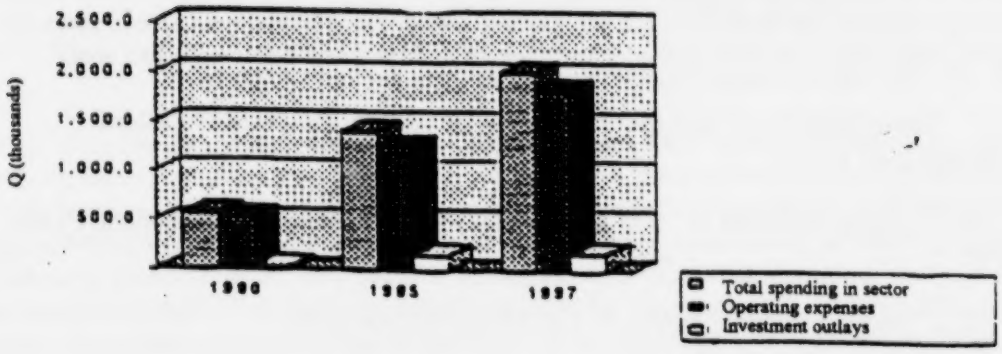
209. The Government's education policy is concentrated on extending the coverage and improving the quality of the school system, particularly at the pre-primary and primary levels and with special attention being paid to girls. Educational reforms are also under way which will alter the curriculum, adapt study programmes, schedules and timetables to suit the population concerned and improve the skills of the teaching corps.

210. As education is crucial to economic, cultural, social and political development, the budget assigns resources to introductory, primary and basic education and training programmes.

Figure 5

CENTRAL GOVERNMENT

TOTAL EDUCATION SPENDING



Source: Ministry of Finance

211. In meeting its educational objectives the Government has been supported by international cooperation: the World Bank, for instance, will grant the country a loan of $33 million under the Peace Agreements for carrying out the Education Reform project at the primary level, which will be administered by the Ministry of Education over a period of five years. The project will focus on the ZONAPAZ area, including the departments of Huehuetenago, San Marcos and Petén.

2. Decentralization and devolution of educational services

212. In the education sector, the Plan of Action for Social Development and Peace-building 1996-2000 sets the goal of strengthening and expanding the National Programme for Educational Self-Management (PRONADE) in order to increase the coverage and improve the quality of educational services in the countryside, financing the construction, expansion and maintenance of educational infrastructure and providing parents' committees with the resources they need to function.

213. This approach is emphasized in the Peace Agreements, particularly in the Agreement on Identity and Rights of Indigenous Peoples, which contains a commitment to "... give communities and families ... an active role in determining curricula and the school calendar and the authority to recommend the appointment or removal of teachers in order better to serve the educational and cultural interests of communities".

214. To promote the decentralization and devolution of educational services, community educational committees (COEDUCAS) have been set up with parental support to administer community schools with the backing of the school boards, which comprise equal numbers of teachers and parents. Novel though this system is, the community educational committees are facing resistance from some quarters, notably the Guatemalan Teachers' Union and the National Assembly of Schoolmasters which believe that there is a movement to privatize education.

215. By late 1996 some 93,696 children around the country were covered by PRONADE, priority being given to the departments of Alta Verapaz, Huehuetenango, San Marcos and Quiché where the educational shortfalls were the most marked. By 1997 it is hoped to have reached 103,391 children, and the goals for 2000 are to have reached 250,000 schoolchildren and trained over 20,000 parents serving on community educational committees, boosting and improving educational quality in over 130 municipalities.

3. School system support programmes

(a) Bilingual education

216. A large percentage of Guatemalan children belong to the Mayan, Garífuna and Xinca sociocultural groups. This has been a factor contributing to the discrimination they have faced in gaining access to education in their mother tongues. Over the past decade considerable steps have been taken to overcome this obstacle and guarantee them the right to bilingual education acknowledged in the current Constitution, international legal instruments (ILO Indigenous and Tribal Peoples Convention, No. 169) and, especially, the Agreement on Identity and Rights of Indigenous Peoples, which calls for efforts to stimulate intercultural bilingual education in indigenous communities and institutionalize within the educational process consultative and participatory machinery with representatives of the indigenous communities. It is important to mention in this context that the joint education reform commission provided for in the Agreement was set up on 1 March 1997.

217. The Children and Adolescents Code requires the State to "guarantee the right to multicultural, multilingual education, especially in areas inhabited mainly by Mayas, Garífunas and Xincas", and to "develop the mechanisms necessary to enable children in rural areas to have access to education through curricula appropriate to their geographical, ethnic and cultural circumstances" (arts. 40 and 41).

218. Among the functions of the Ministry of Education is that of developing bilingual education. The Ministry has therefore set up, by Governmental Agreement 726-95, the Central Department for Intercultural Bilingual Education with the aim of offering, developing and promoting bilingual education at the pre-primary, primary and middle-school levels and extramurally for the country's Mayan, Xinca and Garífuna populations, with active support from parents and the community.

219. The Department, with backing from the Organization of American States project to expand bilingual education to six linguistic communities (Tzutujil, Q'anjobal, Chuj, Achí, Uspanteco and Poqomam), has over the past two years catered for 27,500 students (male and female), issued and approved 14 teaching guides and 24 textbooks in the various languages, and trained 530 teachers. With World Bank backing, some 500,000 first-grade textbooks were produced and distributed in 1996 in the country's linguistic majority regions, Kaqchikel, Mam, K'iché and Q'eqchí.

220. Another bilingual-education-related development has been the establishment of the National Regionally-Based Training Scheme for Intercultural Bilingual Education (SICAREBI), covering 14 departments: its objective is self-management by teaching staff with a view to improving their teaching quality.

221. Some Mayan non-governmental organizations have been running educational activities pursuant to the right to an education based on one's own world view, language and customs. Among these are:

(a) "Towards an alternative Mayan educational model", a programme mounted by the Mayan coordinating committee Majawil Q'ij ("New Dawn") and targeting five linguistic regions: Ch'orti, Q'eqchí, Kaqchikel, Kíché and Mam. In 1996 it catered for 10,192 students at 118 schools in 98 communities, in Chiquimula, Alta Verapaz, Quiché, San Marcos, Quetzaltenango and Sololá.

(b) The Comprehensive Q'eqchí Development Project, which extends to 130 hamlets in eight Alta Verapaz townships.

(c) The Guatemalan Radio Education Institute (IGER) "IGER Home Teacher" radio programme for the Q'eqchí, K'iché, Ixil, Mam and Kaqchikel linguistic communities.

(d) The Semaj School for the Q'eqchí population of Izabal department, which caters for 13 hamlets that the official system does not reach.

222. Other activities in support of the school system undertaken under ministry auspices and backed with funds from a variety of international cooperation sources include the New Unitary School (NEU), the Programme for Girls, and the Comprehensive Care Programme for Children Under Six (PAIN).

(b) New Unitary School

223. The NEU programme is being applied in particular in rural hamlets and settlements, with parental backing. It is based on the principles of active learning and school government, respect for one's home culture, democratic live-and-let-live and a recognition of the parallel requirements of subsistence and education. According to Ministry of Education figures, the pilot NEU project for 1992-1996, which received financial support from USAID Guatemala, covered 23 townships in region II, which comprises the departments of Alta and Baja Verapaz, and 38 in region IV, Jutiapa, Jalapa and Santa Rosa. Altogether the project reached 10,851 students and 277 schoolteachers at 198 schools over the period.

(c) Programme for Girls

224. This programme has been in operation since 1991. Its objective is to promote opportunities and raise girls' educational levels, especially in rural areas and parts of the country with a high proportion of indigenous inhabitants, and to encourage equal treatment at school. Activities cover a variety of areas: technical assistance and coordination among institutions;

research and training; and the production of non-sexist educational materials, a subject which has received special attention this year in conjunction with the National System for Improvement of Human Resources and Curricula (SIMAC).

225. Concrete results of the Programme include the award of 6,211 study grants to indigenous girls. The Programme has reached 8,006 boys and girls, and a further 131,600 in conjunction with other Ministry programmes such as the bilingual education and New Unitary School schemes.

226. Efforts to raise school attendance among girls have enjoyed firm support from private initiatives, especially the Castillo Foundation and Fundazúcar. It must also be pointed out that the Rural Development Foundation has undertaken to finance 30,000 study grants for indigenous girls from eight departments up to the year 2000.

227. Pursuant to the Peace Agreements and plans for educational reform, the Ministry of Education has recently signed a cooperation agreement with the Japan International Cooperation Agency (JICA) which provides for a donation of Q. 1.2 million to strengthen girls' education.

(d) Comprehensive Care Programme for Children Under Six (PAIN)

228. With backing from the World Food Programme, this programme caters for the cognitive development, social and emotional, psychomotor, linguistic, health, nutritional and safety needs of children under six in rural and deprived urban areas. In pursuit of these objectives it has run training courses on care during pregnancy, the importance of breastfeeding, and children's physical and mental development between birth and the age of six at 225 Initial Education Centres. It has also trained 550 volunteer counsellors who serve as helpers in educational activities for three- to six-year-olds run under the coordination of teachers.

(e) Other support for school education

229. Privately-sponsored efforts operating in conjunction with the Ministry of Education and non-governmental organizations in various parts of the country include the Castillo Love Foundation, the Castillo Córdova Foundation, the Carlos Novella Foundation, the Foundation for Life, the Remar Foundation, the Juan Bautista Gutiérrez Foundation, the G&T Foundation, the Society of Friends of Peace, the Chamber of Industry, Siglo XXI, the Paiz Organization, Fundazúcar, the Colegio Castillo Encantado, the Christian Children's Fund, World Vision, and Fe y Alegria. All of these offer support in the form of donations of school equipment and books, teaching materials, study grants, scholarships, libraries, classroom construction and maintenance, and backing for leisure and cultural activities.

230. One important initiative being carried out by the Ministry of Education in conjunction with the Castillo Córdova Foundation and other private bodies is the "Happy Heart" Programme, distributing breakfasts and school meals in order to reduce poor performance and the drop-out rate; this benefits 325,000 children in rural and deprived urban areas.

(f) Human Resources and Infrastructure Programme

231. Other efforts to improve educational services are taking place through the Basic Education Strengthening project (BEST), which receives financial backing from USAID and a loan from the World Bank. The achievements of this project include:

1,722 new places created to allow 68,880 children the opportunity to study on an early evening shift;

541 schoolrooms built for 21,640 children in rural districts;

Furniture provided for 675 classrooms; 1,068 will be delivered shortly and the contract will be extended to cover 1,800 more;

962 mini-libraries delivered, 1,122 more shortly;

1,209,000 books supplied, 487,000 more shortly;

56,000 training guides and manuals supplied;

Training for 2,842 schoolteachers and a new intake of 1,760.

B. Leisure, recreation and cultural activities (art. 31)

232. Enjoyment of this right is restricted for a large proportion of children by the lack of importance society attaches to it and a precarious economic standing that denies them access to the play activities that contribute to their overall development. Children in rural and deprived urban areas especially have little time for leisure and cultural and sporting activities since many are already at work within the home or for money.

233. Added to this are the overcrowded conditions in which families live, especially in deprived urban areas, and the lack of recreation and sports areas. Even children attending school have limited opportunities for play since many school buildings have no areas designed or adequate for such purposes. A survey on how children between the ages of 7 and 14 made use of their time also reveals that girls have less access to space and time for recreation and cultural activities, particularly those that take place in public areas.

234. The Children and Adolescents Code sets forth, in this connection, "the right of children and young people to leisure, relaxation, play, recreational and sporting activities suited to their age, and the right to participate fully and without restriction in the cultural and artistic life of the community". It also guarantees children the "right to set up and take part in student, cultural, sporting, religious and other entities not prohibited by law" (arts. 47 and 38). Little effort is being made by the Government or non-governmental organizations to offer Guatemalan children leisure, relaxation or cultural programmes or facilities.

235. One specific thing that is being put into practice is the Physical Education Study Plan for the Pre-Primary and Primary Levels, which is being applied by the School of Physical Education with backing from the Ministry of Education at infant schools in the Metropolitan area. The Plan is aimed at 4- to 13-year-olds; its innovation consists in the notion that physical education is a teaching discipline which helps to shape the personality of the pupil.

236. The Ministry of Culture and Sport has set up a children's programme which provides for the creation of national-level sports schools for children aged between 7 and 18.

237. One initiative in the non-governmental sector has been the opening of the Alberto Habie Children's Museum, which features a collection of 112 miniature replicas of huipils (traditional embroidered smocks) for day-to-day and ceremonial use, at the Ixchel Museum. This has afforded scope for the re-evaluation and retrieval of cultural elements in order to recreate a tradition and illustrate indigenous peoples' world view and daily lives.

IX. SPECIAL PROTECTION MEASURES

238. The levels of poverty and extreme poverty in which thousands of Guatemalan families live, in combination with other social and political factors, have had an adverse impact on children's quality of life; there is a growing number of children and adolescents in special risk categories such as those working in the formal and informal sectors, those involved in marginal income-generating work, street children and victims of armed conflict. The Plan of Action for Social Development and Peace-building 1996-2000 includes a specific policy targeting this population group, the aim of which is to "offer special protection to vulnerable children and adolescents, and to reduce the degree of risk to which they are exposed, in an atmosphere of peace and solidarity".

Categories of children in emergency situations

A. Children affected by armed conflict

239. Great structural imbalances, leading to poverty, and the lack of opportunities for the majority of the population to voice their social and political concerns were two of the causes of the internal armed conflict that lasted some 40 years and affected the entire population of Guatemala - at first in the eastern region, then in the central region and then, in the final 10 years, in the west of the country where the majority of the population are indigenous peoples.

240. Children and adolescents were affected in a variety of ways by the conflict: according to official estimates, there are 200,000 orphans and 40,000 widows; and during the most violent phase of the armed conflict, an estimated 73,000 children and adolescents lived with their families in the mountains, surviving in Communities in Resistance. Until 1995, the Government recognized their status as non-combatant civilians (Confregua). In addition, 200,000 people are thought to have taken refuge abroad, particularly in Mexico, and more than one million were internally displaced. All these factors had a direct impact on physical, mental and emotional health, access to education, family cohesion and relationships, and the preservation of the identity of thousands of children, particularly indigenous children.

241. One problem that affected indigenous children in particular was forced recruitment (a practice that has fortunately now ceased), both into the ranks of the national armed forces and into the Civil Self-Defence Patrols (PAC) and the Unidad Revolucionaria Nacional Guatemalteca (URNG). In this regard it should be said that Guatemala is in favour of the adoption of the draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflict and has expressed its support for the protocol and its view that the recruitment of children aged under 18 into the armed forces or non-governmental armed groups is unacceptable from every human rights standpoint, even when enlistment is voluntary.

242. The rights of children affected by armed conflict are guaranteed in instruments such as the Plan of Action 1996-2000, the Peace Agreements and the Children and Adolescents Code. The Code stipulates that "in the event of armed conflict, children and adolescents have the right not to be recruited and the State shall respect and ensure the observance of the relevant provisions of international humanitarian law and take all possible steps to ensure that persons under the age of 18 do not become directly involved in the hostilities and are not recruited for military service at any stage" (art. 59).

243. According to the Comprehensive Agreement on Human Rights, "it is a humanitarian duty to compensate and/or assist victims of human rights violations. Said compensation and/or assistance shall be effected by means of government measures and programmes of a civilian and socio-economic nature addressed, as a matter of priority, to those whose need is greatest, given their economic and social position".

244. The Peace Agreements recognize the importance of identifying the causes of the armed conflict and the magnitude of human rights violations committed during that period; to that end the Commission for Historical Clarification in Guatemala was established: its main purpose is to restore Guatemalan society's historical memory in order to ensure that such suffering never recurs.

245. At another level, in order to attend to the needs of the displaced population, the National Fund for Peace (FONAPAZ) has conducted a census of the Communities in Resistance in order to obtain data that will make it possible to identify needs and promote action to improve their standard of living.

246. Another problem resulting from the armed conflict is that the displaced population have no papers; the Government has promised to submit to Congress the necessary reforms of the Act on Personal Documentation of the Population Displaced by the Internal Armed Conflict (Decree No. 73-95). Such measures, taken at the level of the population as a whole, will contribute to family and community reunification and will directly benefit children and adolescents.

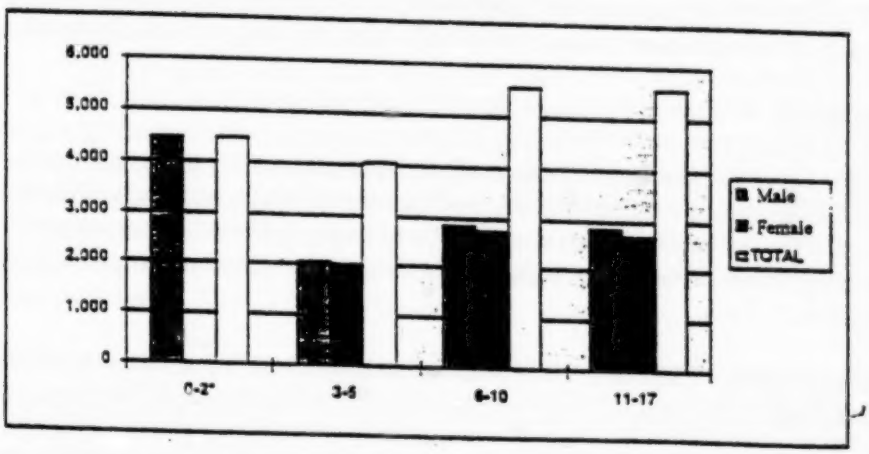
247. In 1986, the Government undertook to create conditions that would allow Guatemalan refugees abroad to return home and to provide assistance to persons displaced from their place of origin or residence. To that end the National Commission for Aid to Refugees, Returnees and Displaced Persons (CEAR) was established. CEAR has moved on from dealing specifically with returnees and is now taking a more active role in the restoration of peace and democracy; to that end, its institutional status has been strengthened and the scope of its activity expanded.

248. CEAR is conducting a number of research and social and demographic analysis projects for use in planning projects, allocating resources and raising funds. This work is being carried out in liaison with governmental, non-governmental and international organizations involved in food and nutrition security, infrastructure and housing, manufacturing, income and employment, health, education, land-purchase negotiation and loans, and resettlement of displaced groups. According to CEAR data, 33,773 people returned to the country between 1987 and 1997; of these 19,630 were children below the age of 18. The graph below gives a breakdown of that group.

Figure 6

RETURNEE POPULATION

CHILDREN AND ADOLESCENTS 0-17 YEARS
1987-1997



Source: CEAR 1997.

Note: The 0-2 age group is not broken down by sex.

249. CEAR has worked specifically with returnee children in the following areas:

(a) Demining and detection of explosive devices: in conjunction with the Coordinating Committee for the Reduction of Risk to Residents of Areas Affected by the Armed Conflict (Demining Programme, Decree No. 60-95, art. 3);

(b) Food aid, in coordination with the World Food Programme (WPF);

(c) Health: in 1997, a cooperation agreement was signed between the UNHCR office in Guatemala, the Vives Scheel and Associates law office and the Guatemalan Paediatric Foundation, for the provision of medical care to refugee and returnee children, ranging from checks on children's growth and development and vaccinations, to simple and complex surgery.

(d) Education: in 1997, CEAR, the Ministry of Education, UNHCR, the National Fund for Peace and the Social Investment Fund, concluded a cooperation agreement to construct and equip schools to help educate returnee children. The Ministry of Education has also agreed to recognize qualifications obtained in Mexico by educational outreach workers and to approve returnee children's studies in Mexico. Educational services for the returnee population will be provided mainly in the departments of Alta Verapaz, Huehuetenango, El Quiché (Ixcán), El Petén and Suchitepéquez. Other support for education includes donations of 534 bilingual (Maya-Spanish) books by Rafael Landívar University and of 10,000 reading and writing books by the European Union's institutional support programme.

(e) Recreation and sports: CEAR has dealt with this aspect by building recreation areas and sports fields in returnee communities, with financial assistance from the Central American Bank for Economic Integration (CABEI).

(f) Planning of settlements: the Programme to Support Resettlement of Displaced Groups (HABITAT-UNDP/CEAR) has assisted more than 11,000 people, supplying to date 1,468 plots of land and 48 infrastructure projects (drinking water, housing, schools, bridges).

Psychosocial rehabilitation

250. In 1997, in pursuit of its objective of supporting children affected by the armed conflict, as established in the Development Plan 1996-2000, the Ministry of Health and Social Welfare launched an action plan for the psychosocial rehabilitation of groups affected by the internal armed conflict, targeting children and young people and based on a preventive programme with community participation.

251. In addition, since 1992, NGOs have been working on projects to restore the mental health of these groups, including:

(a) A project for children in the Ixil area (PRONIXIL), which has been training and educating youth leaders and primary schoolteachers in Triángulo Ixil since 1992. The project has benefited some 11,000 children aged between 6 and 17.

(b) Programmes run by the Association of Community Health Services (ASECSA) (Chimaltenango) and the Catholic diocese of Quiché, which attempt to reduce psychosocial damage to child victims of the armed conflict.

252. Although the consequences of the conflict can still be felt at both the national and the local levels, the conditions for promoting programmes of this kind with a degree of confidence are more favourable now than in previous years. There are still a number of constraints, however, such as a lack of professional staff prepared to work in these communities and of information on appropriate approaches, and insufficient services to meet demand.

B. Children in conflict with the law (art. 40 and art. 37, paras. (b), (c) and (d))

253. The problems facing Guatemalan society are illustrated by the poverty and social exclusion that prevail among its people, which are reflected in high rates of unemployment and underemployment, inadequate household income, lack of basic services, family breakdown and the erosion of moral and ethical values within the family and the community. The situation has hampered the psychosocial development of children and adolescents, and this applies particularly to those living in rural and marginalized urban areas: they do not grow up in a culture of self-esteem and the resulting emotional crises, self-destructive behaviour and resentment against society generate patterns of behaviour that are at odds with social norms.

254. In conjunction with these factors, Guatemalan society has in recent years faced a public safety crisis that has resulted in high levels of communal violence; children have not been spared, but have found themselves involved in various ways in acts that place them in conflict with the law. Although no research has yet been done to establish precisely the number of children and adolescents in such a situation, government institutions and NGOs agree that it is an increasing problem.

255. In 1991, the Commission for the Convention on the Rights of the Child launched a wide-ranging debate, involving government and non-government sectors, on the living conditions of children in Guatemala in the light of the principles of the Convention on the Rights of the Child. The purpose of the debate was basically to promote cultural change within society - particularly in the area of justice - with a view to moving away from an attitude focusing on children in "irregular situations" towards an approach based on the comprehensive protection doctrine.

256. The debate lasted six years and culminated in the drafting, presentation and adoption of a new Children and Adolescents Code, which suggests that the issue of children in conflict with the law should be taken out of the judicial sphere: that would entail a new definition of the concepts of offence and offender. The Code also makes the community and various State institutions responsible for implementing relevant measures, with the deprivation of liberty as a last resort. The provisions on minors who violate criminal law are contained in Book III, Title II, "Young People in Conflict with the Law" (Children and Adolescents Code, arts. 159-287).

257. In line with the provisions of the Children and Adolescents Code, the Plan of Action 1996-2000 aims to "promote the design and implementation of policies, programmes and projects for the protection of the rights of the child", "ensure the elimination of all non-judicial forms of deprivation of liberty for young people aged under 18" and "restructure the system of care and treatment for adolescents in conflict with the criminal law". Although the entry into force of the new Children and Adolescents Code has been postponed, the government bodies responsible for taking action under the Code are committed to the process of restructuring where necessary.

258. With this in mind, the National Civil Police and the Supreme Court are developing a training programme on the new Code and their specific responsibilities. The Court has also begun establishing Child and Juvenile Courts. The Public Prosecutor's Office is establishing a

Juvenile Prosecutor's Office and the Social Welfare Department is being restructured at two levels: (i) by improving the physical infrastructure of care centres for children in conflict with the criminal law and (ii) by adjusting its programmes and training its staff.

C. Child and juvenile labour

259. The impoverishment of large segments of the Guatemalan population has meant that many families' subsistence depends to a large extent on income from child or youth labour, and a high percentage of children have been obliged to seek work in both the formal and the informal sectors.

260. According to data from the 1994 national population census, an estimated 756,711 children (aged 7-17) are economically active, accounting for 26 per cent of the economically active population. However, there is a significant rate of under-registration, particularly in the informal sector and domestic service, which makes it difficult to ascertain exactly how many children work, although projections by institutions researching this problem show that the figure could be as high as one and a half million.

261. As regards occupations, geographical location, race and sex, the figures show that two thirds of children in rural areas - mainly indigenous children - work in agriculture, which employs 8 boys out of 10 and 3 girls out of 10. In urban areas, boys work in the informal sector (street vending, shoe-shining, car-washing, etc.) and there are large numbers of girls working in commerce (18 per cent), industry - especially the maquila industry - (23 per cent) and domestic service (25 per cent). Generally speaking, girls in domestic service come from rural areas and indigenous communities and belong to large families.

262. One noteworthy element is the large numbers of children and adolescents compelled to migrate temporarily, with their parents, for seasonal agricultural work both within Guatemala and on farms in the south of Mexico.

263. Working conditions for the majority of child workers are characterized by low wages, no benefits and long, intensive hours. There are still cases of children who work for only board and lodging, with no cash wages.

264. One of the worst consequences of early admission to labour is the violation, for a large majority of children, of the right to education, since they do not attend school, drop out easily, constantly have to repeat grades and are poor achievers. Children are also deprived of their right to play, recreation and free time; their self-esteem and sense of identity are thus affected, together with the free development of their potential and their opportunities for the future.

265. Precarious working conditions also have an adverse effect on child workers' overall health, particularly where workplaces are unsuitable, cramped, unventilated, or unhygienic, or dangerous, bringing children into contact with toxic, flammable, polluting or high-risk materials. Examples of highly dangerous workplaces are firework factories, where at least 2,000 children are estimated to work, lime and stone quarries and fields where children collect glass waste.

266. The new Children and Adolescents Code recognizes "the right of children to be protected from economic exploitation and from any kind of work that may be dangerous for their physical or mental health, or that impedes their access to education" and "to be protected by the State, the family and society in order to engage in education, sport, culture and recreation" (art. 53).

267. In order to put an end to the adverse effect of child labour, the Children and Adolescents Code provides for the establishment of two bodies for the protection of working children: the National Commission on Juvenile Labour and the Juvenile Labour Protection Unit. The task of the National Commission "is to implement a labour policy that will ensure the protection of young workers in coordination with the National Children's Council". The Protection Unit's task is to "conduct projects and programmes initiated by the Ministry of Labour and Social Security and the National Commission on Juvenile Labour" and to "ensure that the provisions relating to young workers are observed and report any violations to the competent authorities for investigation and, where appropriate, punishment" (arts. 100-106).

268. One improvement in the Children and Adolescents Code over the earlier Minors Code is that it deals openly with child labour and even stipulates the establishment of administrative and organizational bodies. However, it does not provide specific standards to regulate, protect, reduce or eradicate child and juvenile labour, which is still regulated by the Labour Code and the Constitution.

269. Significant progress has been made in terms of research, sensitization and protection of child and juvenile workers' rights since 1992, when the Child Worker Unit was established in the Ministry of Labour. The Unit has now been strengthened by larger allocations of human and financial resources. The Child Worker Unit operates through various programmes: social and labour advisory services, training, publicizing and promoting labour rights, lobbying employers and trade unionists and coordinating institutions at the national and international levels.

270. One noteworthy programme is the educational loan programme, which is coordinated through the Ministry of Labour's Directorate for the Promotion of Scholarships and takes the form of financial aid to help young workers attend and remain in school. The scheme is still in its infancy and does not go far enough, but it represents an innovative approach that will help guarantee young workers' right to education.

271. In terms of the elimination of child labour, a significant step forward was taken with the signing, in June 1996, of a memorandum of understanding between the Ministry of Labour and the International Labour Organization, committing Guatemala to adopting the strategies of the International Programme on the Elimination of Child Labour (IPEC). In addition, the Plan of Action 1996-2000 aims "to establish mechanisms for the gradual elimination of labour for children aged under 12 and of adolescents' involvement in dangerous occupations", a proposal that demonstrates the Government's willingness to act to combat child labour.

272. In an effort to document the scale and nature of child labour, a number of NGOs such as the Mother and Child Care Programme (PAMI), Childhope, Pro Niño y Niña Centroamericanos (PRONICE) and the Alliance for Community Youth Development (ADEJUC) have done important and valuable research to highlight the vulnerability of thousands of children working

in jobs that represent a severe risk to their physical and mental health - for example, in firework factories, lime and stone quarries, construction and coffee, anatto and cardamom harvesting. The results of this research support the eradication of child labour.

D. Children whose rights are threatened or violated (street children)

273. The problem of street children has its roots in situations of poverty, instability and family violence, rejection and negligence, all of which make it impossible for families, the community or society to offer children support, education, health and quality of life. Street children are thus the product of rifts, imbalances and malfunctions in the social structure.

274. The number of street children has increased in recent years: they are to be found particularly in urban areas, not only the capital but also in a number of departments. According to various organizations, there are between 3,500 and 5,000 street children. However, the mobile nature of this group has made it difficult to ascertain more precisely the number, age, sex and race of its members. The group's profile shows that some street children have no family at all, while others maintain tenuous family ties but live on the street, surviving on their wits.

275. Street children have little or no education and their health is poor; they suffer from conditions such as malnutrition, anaemia, chronic and acute respiratory infections, gastro-intestinal diseases, dental caries and sexually transmitted diseases. Many of them take drugs, sniff glue or solvents, drink alcohol and smoke. With the street as their constant companion, these children learn to "get around" in this environment through random experiences involving dehumanization, abuse, exploitation, hunger and much more. Play space, friendship and loyalty are all conditioned by life on the street.

276. In its treatment of this situation, the Children and Adolescents Code defines "as a threat to or violation of children's and adolescents' human rights, anything resulting from: any act or omission by society or the State; any error, omission or abuse by parents, guardians or persons in positions of responsibility; and children's own actions or omissions". The Code also obliges the State to "ensure that the public or private institutions that care for children whose human rights have been violated, themselves respect those rights" (arts. 77-79).

277. The Office of the President and the municipality of Guatemala City have recently initiated consultations with government bodies, NGOs and international organizations with a view to devising a National Plan for the Care of Street Children, which includes the following strategic aims:

(a) To directly reduce the numbers of street children by improving the economic, social and cultural conditions of the population at large;

(b) To develop and implement a comprehensive plan of action with the emphasis on preventive measures at the community and family levels;

(c) To devise strategies for non-traditional care and treatment which make it possible to enhance the effectiveness of current work by reorienting existing programmes;

(d) To harmonize operating guidelines in order to effectively coordinate the action of the various government bodies and NGOs.

The Plan includes policy elements on support for street children, research, staff training and education, inter-institutional coordination, funding and children's participation.

278. The tasks of the Standing Commission on Children and Youth (COPANJ), which is made up of governmental and non-governmental organizations, include monitoring cases of rape and abuse of street children. There are also a number of NGOs, including particularly the Casa Alianza, devoted to meeting the needs of street children. They work mainly on prevention, follow-up and direct care for the children. In addition, international cooperation agencies such as Germany's GTZ provide backing for the Street Children Support Project, whose activities include educational work, lobbying and social and health provision.

E. Children and drug abuse

279. In recent years, drug trafficking and drug use have become a major social problem and a threat that requires swift and decisive action. Drug addiction has grave consequences for community life and family well-being, regardless of socio-economic status, and can seriously damage the cultural, economic and political foundations of society. The spread of drug use is due to the environment young people experience at home and/or at school, and is encouraged indirectly by the prevailing lack of moral and social values and directly by the ill-treatment they suffer at the hands of their parents and other adults and the bad example they are set.

280. The combination of poverty and the lack of opportunities for self-expression and personal development engenders feelings of frustration and discontent that are exploited by criminal gangs to lure young people into drug use, thereby triggering a sequence of problems ranging from delinquency, violence and increasing numbers of street children, to death.

281. The multicultural, multilingual make-up of Guatemala's population makes it difficult to devise and implement drug-addiction education and prevention programmes. Moreover, there is no organized or coordinated institutional structure providing permanent drug prevention, rehabilitation, follow-up or evaluation programmes.

282. According to the Children and Adolescents Code, "children have the right to be protected against the use and abuse of addictive substances, and the State shall establish appropriate programmes to that end" (art. 54).

283. Similarly, one of the priorities of the Plan of Action 1996-2000 is "to encourage the development of a social, economic, cultural and recreational climate conducive to human development, which discourages both individuals and groups from trafficking in or using addictive substances". In line with this aim, the Plan provides guidelines for the inclusion of information on drug use and abuse in the national school curriculum and for the reinforcement of children's ethical and moral values, their self-esteem and their decision-making ability. Another

of its priorities is to train educational counsellors and youth leaders to devote time and effort to preventive education and involve the community and associations (as multipliers) in providing guidance to adolescent and adult drug addicts.

284. In line with the government proposal, the Office of the Vice-President has launched a number of projects in coordination with other bodies, through the Office of the Executive Secretary of the Committee against Drug Addiction and Drug Trafficking (SECCATID), including:

(a) The National Plan for Comprehensive Preventive Education (PLANEPI). Starting in 1996 and using an approach based on cross-disciplinary, inter-institutional coordination, the Plan's strategy involves training multipliers (primary schoolteachers, parents, counsellors and outreach workers) in the areas of comprehensive preventive education, physical and mental health (AIDS/drugs) and human rights. PLANEPI forms part of the administrative structure of the Ministry of Education and its preventive education work targets schoolchildren at the pre-primary, primary and basic education levels. One recent practical project was the "Stars to the Rescue" programme, carried out in coordination with the National Pre-Primary Teacher Training College.

(b) The Drug Abuse Resistance Education (DARE) Project: this is a cooperative effort involving officials of the police and the Treasury Police (Guardias de Hacienda) authorized by DARE America (United States Embassy), and teachers, students and parents, which aims to help students to recognize and resist direct and indirect pressure to experiment with drugs.

285. A practical activity related to prevention of drug addiction was the second Student Leader Symposium, held in 1997, for young people from various regions of the country. The Symposium was coordinated by the Ministry of Education and the Council of Anti-AIDS Agencies.

286. Also in 1997, the National Youth Council and the Office of the Executive Secretary of the Coordinating Committee against Drug Addiction and Drug Trafficking (SECCATID) launched a variety of media campaigns on the prevention of addiction. As part of the campaign, a poster competition was held for children aged 11 to 17, and the posters were exhibited in the Palacio Nacional.

F. Sexual exploitation and sexual abuse (art. 34)

287. Child prostitution affects girls particularly and is a product of poverty in general, sexist patterns of behaviour, emotional deprivation and neglect by the family and society. Efforts to research the problem have been made in the last five years in order to bring it into the open. However, the clandestine nature of such activities and the fact that communities rarely report incidents, combined with a lack of coordination among the government bodies directly responsible, have made it difficult to obtain precise data on the extent of the problem.

288. A pilot study was recently carried out in eight municipalities in four departments: Escuintla, Alta Verapaz, San Marcos and Huehuetenango. The results are still under discussion, but it can be concluded that poverty, social breakdown, prevailing cultural patterns and the presence of sex-traffickers are among the causes of the spread of child and youth prostitution, involving violations of girls' right to personal integrity and causing irreversible damage to their physical and mental health. The same studies show that the law as it stands provides for only light penalties for such trafficking, which means that, far from acting as a deterrent to these abhorrent practices, it encourages further sexual and economic exploitation of children.

289. The Children and Adolescents Code, article 58, sets forth children's right to "protection from any form of sexual exploitation or abuse, including: inducement or coercion to engage in any sexual activity; use in prostitution or pornographic performances and materials; sexual promiscuity; sexual harassment by teachers, guardians or carers". The Plan of Action 1996-2000 also aims "to establish protection and prevention mechanisms for the eradication of prostitution, sexual ill-treatment and abuse of children and adolescents".

290. Guatemala favours the adoption of the draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and has expressed support for it.

G. Children and public safety

291. Increasingly brutal violence and crime are a problem that poses a direct threat to the well-being of all Guatemalans regardless of class, ethnic group or sex. One obvious example is the growing practice of abduction for ransom, which many families, including children, have endured in recent years. Abduction involves the violent separation of children or young people from their family environment, deprivation of liberty, disruption of daily life, invasion of privacy, violation of emotional, mental and physical integrity, and threats and/or torture, resulting in irreparable damage that requires specialized treatment. This kind of crime is rarely reported, since families are afraid to risk the victim's life; many of these incidents thus remain shrouded in secrecy, which makes it difficult to determine the number of cases.

292. In terms of legislation, the current Criminal Code states that kidnapping or abduction for the purposes of obtaining a ransom, a reward or an exchange of third parties, for any other illicit purpose or for profit, shall be punishable by 25 to 30 years' imprisonment. It also provides for the death penalty if the victim is aged under 12 or over 60 or if the kidnapped person suffers serious or very serious injuries, permanent psychic or psychological trauma or death.

293. The new Children and Adolescents Code also stipulates that "Children and young persons have the right to protection from abduction, trafficking or sale for any purpose or in any form. The State shall use every measure and strategy to prevent such acts" (art. 52).

294. However, the scale of the problem of abduction is beyond the technical, financial and human capacity of the State to deal with and it has not been possible to eradicate it despite the efforts of the authorities and government institutions.

295. Nevertheless, groups have sprung up within civil society aiming to form grass-roots bodies to lobby, monitor and enhance the State's own effectiveness and efficiency in addressing the problem, from root cause to effect; examples of such groups are the Anguished Mothers and Family and Friends against Crime and Kidnapping. Basically, these groups try to:

(a) Provide psychological support for the victim and help the family during the negotiations;

(b) Run sensitization and awareness-raising programmes on what is effectively an epidemic, for the public at large;

(c) Carry out studies and analyses of justice administration in Guatemala, with a view to submitting proposals that may help to correct current shortcomings both in the judiciary and in the Public Prosecutor's Office.